

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CrI.P.No.11094 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in Cr.No.25 of 2017 of Tirmulghery Police Station, Secunderabad, registered for the offences punishable under Sections 498-A and 306 IPC, against the petitioner.

2. The petitioner is the husband of deceased Sumayya Iqbal Khan. Their marriage took place on 23.05.2010 as per Muslim customs. When the petitioner went to Dehradun after obtaining annual leave as an employee in Armed Force, she committed suicide in military quarters, Secunderabad. On receipt of information about the death of his daughter through his colleague, father of deceased came to Hyderabad, rushed to the Hospital at Secunderabad and found the dead body of his daughter in the mortuary and requested the police to handover his daughter's dead body for performing funerals. On the strength of the same, the police registered a case under Section 174 of Cr.P.C., initially and later, the Section of law was altered to Sections 498-A and 306 IPC by filing a memo before the Special Executive Magistrate, Nampally, Hyderabad on 06.03.2017 and issued an altered FIR.

3. The main contention of petitioner before this Court is that the petitioner was away from Secunderabad on the date of incident as he went to Dehradun on availment of annual leave being an employee in Armed Force. He produced a copy of the leave certificate, which discloses that the petitioner was on leave for a

period of 12 days for the year 2017 i.e., from 21.02.2017 to 04.03.2017, whereas the incident allegedly took place on 25.02.2017. The petitioner also produced a photostat copy of flight ticket of Indigo to substantiate his contention that he undertook journey from Secunderabad to Dehradun on 21.02.2017 and the flight was departed at 9.35, but a copy of return ticket is not filed. Therefore, based on the leave certificate and the flight ticket, petitioner contended that he was away from Secunderabad and there is nothing to indicate that the petitioner instigated his wife to commit suicide soon before her death and requested this Court to quash the proceedings.

4. Virtually, the plea raised by petitioner is an *alibi* and such plea can be decided only during trial as it is a question of fact. If the petitioner was away from Secunderabad and went to Dehradun on 21.02.2017, there is a possibility to come out to Secunderabad thereafter since the incident allegedly took place on 25.02.2017, but conveniently, petitioner did not produce a copy of return ticket or boarding pass to establish that he came to Secunderabad after the death of Sumayya Iqbal Khan. Moreover, it is a question of fact to be decided only at the end of trial and at this stage, on that ground, the proceedings in the crime cannot be quashed. Hence, I find no ground to quash the proceedings against the petitioner and the criminal petition is liable to be dismissed.

5. In the result, the Criminal Petition is dismissed, at the stage of admission. However, it is left open to petitioner to raise such plea during trial.

6. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

20th November, 2017

sj

