

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER
CRIMINAL PETITION Nos.11971 AND 11987 OF 2017

COMMON ORDER:

Heard learned counsel for the petitioners/A.1 and A.2, learned Additional Public Prosecutor for the respondent State and perused the record.

These petitions are filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners/A.1 and A.2 in Crime No.61 of 2017 of Midthur Police Station, Kurnool District, for the offence punishable under Section 304(ii) IPC read with Section 34 IPC.

Learned counsel for the petitioners would submit that A.1 is the owner of the house. The de facto complainant is also the owner of adjacent house. In order to lay RCC roof, the petitioner/A.1 removed old roof. When there was heavy rain on 07.10.2017, the roof and wall of the house of the de facto complainant collapsed and his son Jaswanth died. The petitioner/A.2, who is working under A.1, has nothing to do with the collapse of the roof and the wall. It is only an act of God. The petitioners directly or indirectly are not responsible for the death of the son of the de facto complainant viz., Jaswanth and ultimately prayed to allow the petition.

Learned Additional Public Prosecutor opposed the grant of bail to the petitioners/A.1 and A.2.

From the submissions made by both sides, it has come to light that the houses of the petitioner/A.1 and the de facto complainant are situated side by side at Talamudi Village. The petitioner/A.1 wanted to replace old roof of his house with the RCC roof. The width of the wall between the parties to the litigation is

2 ½ feet. In the process of laying RCC roof, the petitioner/A.1 with the help of A.2, removed roof on the joint wall and laid his RCC roof and left open the gap between the roof of his house and the old roof of the house of the de facto complainant. The de facto complainant had paid an amount of Rs.20,000/- in advance to the petitioner/A.1 and wanted to set right the wall, before laying the RCC roof by petitioner/A.1. In spite of several demands, the petitioner/A.1 did not do so. De facto complainant also demanded the petitioner/A.2 to fill up the gap, but petitioner/A.2 has attended the slab work of the house of petitioner/A.1. Left gap in between the roofs of the house of petitioner/A.1 and the de facto complainant. When there was heavy rain, the wall and the roof of the de facto complainant's house collapsed as there was gap. Some mud stone wrappers were fallen on the son of the de facto complainant, who is sick on that day, and it caused his instant death. There is ill-will and deliberate act on the part of the petitioners/A.1 and A.2 in not filling up the gap and properly reconstructing the joint wall. If the gap was filled up in time, the subject death could not have taken place. It cannot be said that the petitioners/A.1 and A.2 directly or indirectly are not responsible for the collapse of the wall and the death of the son of the de facto complainant. The allegations are serious in nature. The matter requires thorough investigation. Release of the petitioners would hinder the investigation.

In the result, the Criminal Petitions are dismissed.

Dr. SHAMEEM AKTHER, J

13th December, 2017.
ssp