SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.9368 of 2011

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C, seeking to quash the proceedings against the petitioners/A.2 and A.3 in S.C.No.280 of 2009, on the file of IV Additional Senior Civil Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar, registered for the offence punishable under Section 306 IPC.

2. Heard learned counsel for the petitioner and the learned Public Prosecutor appearing for the 1st respondent. None appears for the 2nd respondent in spite of service of notice.

3. The deceased B.Gurvi Reddy is the son of the complainant. The deceased and A.1 to A.4 are family members. The deceased, A.1 and A.5 are close friends. A.5 is doing finance business. On a request made by A.1, the deceased has taken amount from Sri Ramalingeswara Finance, Yousufguda and gave it to A.1. Thereafter, A.1 did not return the money. When the deceased went to the house of A.1 and requested him to return the amount, A.1 to A.4 threatened him that they will file a case against him. Since A.5 was insisting for money and A.1 had been avoiding to pay the amount due to him, the deceased got vexed and committed suicide on 08.04.2008, by hanging herself, in the house.

4. In the translated copy of suicide note, dated 08.04.2008, it is stated as follows:

> *"My name is Gurvi Reddy. I was cheated by two persons. That's why I am committing suicide. They took three lakhs from me and did not give back instead said they do not owe to me and so saying made me commit suicide.*

> *They are Mahesh, Ramadevi, Srinivasulu, Lalitha. This is Mahesh Kukatpalli family. Another person is G.Srinivasulu resident of Musaguda. These two persons are responsible for my death."*

5. In the said suicide note, the names of some persons were mentioned, which include the names of these petitioners, who are A.2 and A.3.

6. Learned counsel for the petitioners would submit that the petitioners/A.2 and A.3 are not concerned with the transaction as it is between the deceased and A.1 only. He also placed reliance on the charge sheet, in which is mentioned that the transaction took place between the deceased and two others persons. But, the charge sheet speaks about the threats that were levelled against the deceased by A.2 to A.4. Learned counsel for the petitioners placed reliance on a judgment reported in **Chitresh Kumar Chopra v. State (Government of NCT of Delhi)**[1], wherein at para 16, the Apex Court held thus:

> "Speaking for the three-Judge Bench in **Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618]** , R.C.Lahoti, J. (as His Lordship then was) said that instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of "instigation", though it is not necessary that actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. *Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred.* A work uttered in a fit of anger or emotion without

[1] (2009) 16 Supreme Court Cases 605

intending the consequences to actually follow, cannot be said to be instigation."

7. This Court for the reason that the Apex Court said that when the accused by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred, cannot quash the proceedings against these petitioners.

8. The above observation of the Hon'ble Supreme Court would necessitate to take up the trial in this case, as the nature of threats and magnitude of the threats and whether the threats were of such an impact, which left no other option to the deceased, except to commit suicide, has to be assessed only through evidence.

9. The contention of learned counsel for the petitioners is that the case of prosecution cannot be improved upon 161 Cr.P.C. statements, which in this case do not make out any offence against these petitioners. The charge sheet does not impress this Court, as the 161 Cr.P.C. statements of witnesses cannot be taken as complete evidence of a fact, it would be only an outline of the thought of the person making the statements. A liberty for the witness, to elaborate on the statement made by him under 161 Cr.P.C has to be given, unless it amounts to contradiction or omission. Hence when such exercise has to be taken up by the Court to arrive at an understanding of the conduct of the accused, which could or could not have lead the deceased to commit suicide, it is not safe to quash the proceedings at this stage.

10. Accordingly, the Criminal Petition is dismissed. Miscellaneous petition, if any, pending in this petition shall stand closed.

T. RAJANI, J

SEPTEMMBER 05, 2018
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SMT JUSTICE T. RAJANI

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

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Date:05.09.2018

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