

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.R.C.No.739 of 2018

ORDER:

This revision is arising out of the order dated 23.02.2018 passed in Crl.M.P.No.497 of 2017 in S.C. No.118 of 2017 by the Principal Sessions Judge Court, Medak at Sangareddy.

2. The petitioners/A6 and A7 have filed Crl.M.P.No.497 of 2017 on the file of Principal Sessions Judge, Medak at Sangareddy, under Section 227 Cr.P.C., for discharging them from the accusation that was levelled against them in Crime No.06 of 2016 of P.S. Indrakaran for the offences punishable under Sections 304-B and 302 IPC concerning SC No.118 of 2017.

3. Heard Sri U.V Suresh Kumar, learned counsel for the petitioners/A6 and A7 and learned Public Prosecutor for the respondent-State at the stage of admission.

4. Learned counsel for the petitioners submits that the petitioners/A6 and A7 have filed a petition before the trial Court contending that the names of the petitioners were not found either in the complaint or in the FIR dated 19.01.2016. Originally the offence punishable under Section 498-A IPC was registered against them by the police. Subsequently, after recording dying declaration of the victim on 19.01.2016, the section of law was altered to the offence punishable under Section 304-B IPC. He further submits that the deceased did not reveal the names of the petitioners/A6 and A7 in her dying declaration, which itself shows that the petitioners/A6 and A7 have not involved in the alleged

commission of offence and while the offence took place at Indrakaran village, the petitioners were residing at Narsapur village, which is at a distance of 50KMs away from the place of offence.

5. Learned counsel for the petitioners further submits that in the dying declaration the deceased has stated that Accused No.1 has set fire to her on a doubt that she was having illegal affair with her lecturer during college days. Whereas, the complaint discloses that the deceased, while being in ambulance, on the way to Gandhi Hospital stated to have informed to her brother, the defacto complainant that due to unbearable harassment and torture from A-1, she herself poured kerosene and set blaze to herself. He further submits that the names of the petitioners/A6 and A7 were not mentioned either in the dying declaration or in the inquest report. Learned counsel further submits that 164 Cr.P.C. statements of LWs.1 to 4, 6, and 7 recorded by the learned Magistrate are false as they are no other than the relatives of the deceased. Therefore, the contents of 164 CrPC statements cannot be taken into consideration, as such, the petitioners/A6 and A7 are entitled for discharge from the accusation made against them.

6. On the other hand, learned Public Prosecutor submitted that during investigation it was revealed that A1 to A7 harassed the deceased demanding for additional dowry. The petitioners /A6 and A7 being brother-in-law and sister of A-1 have frequently visiting the house of A1 and instigating A1 to A5 for demanding additional dowry from the parents of the deceased and with such demand, A7 abused and manhandled the deceased, while A6, who

is police constable threatened her. A6 also insulted the deceased. He further submits that the petitioners/A6 and A7 have instigated A1 and A5 in the commission of the offence by the A1.

7. On considering the 164 Cr.P.C. statements of witnesses about the involvement of the petitioners/A6 and A7 as the allegations levelled against them, the learned Sessions Judge has dismissed the petition filed by the petitioners/A6 and A7, for their discharge.

8. The point for consideration in this revision is that :

Whether the petitioners/A6 and A7 are entitled for discharge of the accusation under Section 304-B IPC?

9. This is a case of death of a female in her matrimonial home. Death is whether suicide or a homicide is yet to be decided basing on the material on record. Admittedly, 164 Cr.P.C. statements of the witnesses, who are the close relatives of the deceased, were recorded by the learned Magistrate. The trial Court has *prima facie* come to the conclusion that there are allegations against the petitioners/A6 and A7 and there is necessity to frame charges against them. Though learned counsel for the petitioners has submitted that the allegations in 164 CrPC statements of relatives of the deceased cannot be taken into consideration, as they are being interested witnesses, is a subject for evaluation of the evidence in respect of the other facts and circumstances of the case.

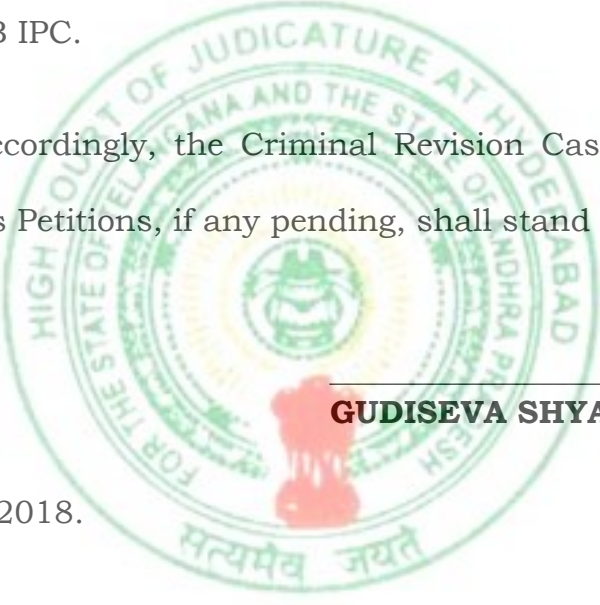
10. The contention of the learned counsel for the petitioners is that there is ambiguity with regard to the death of the deceased as to whether the death is a suicide or a homicide is also a

question that would be decided, in the trial basing on the evidence available on record.

11. The contention of the learned counsel for the petitioners is that the deceased has not stated any thing against the petitioners/A6 and A7 in her dying declaration and therefore they are entitled for discharge of the accusation under Section 304-B IPC is highly premature in the light of material available on record.

12. In view of the foregoing reasons, the petitioners are not entitled for their discharge for the offence punishable under Section 304-B IPC.

13. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous Petitions, if any pending, shall stand closed.



GUDISEVA SHYAM PRASAD, J.

Date : 19-11-2018.

Gvl/MSR

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

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19.11.2018
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