

THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD**CRIMINAL PETITION No. 3511 of 2011****ORDER :**

This petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings in Crime No.84 of 2011 of Kurnool II Town Police Station, Kurnool.

2. The brief facts of the case are that the 2nd respondent gave complainant to police, II town, Kurnool alleging that she is the wife of late Sri V.Kalyan Chakravorthy, who worked as Attender in District Employment Exchange office, Kurnool. He was due for promotion to the cadre of Record Assistant. On that regard, about 20 days back the Deputy Director, Tirupati has directed the District Employment Officer, to consider his promotion. In spite of the said direction, the petitioners have not given promotion to her husband, therefore, she visited the office of the petitioners, along with her children and requested them, even then, they did not consider his promotion. On 09.04.2011, in the evening hours, her husband informed her about the harassment made by the petitioners with regard to his promotion. On the early hours of 10.04.2011, at about 4 A.M., when she woke up, she did not find her husband on the bed, and she thought that her husband might have gone to attend calls of nature and opened the bed room door, and found her husband hanging to a ceiling fan with a Sari, and dead. She alleged that her husband committed suicide as they did not consider his promotion. The police, on receipt of her complaint,

registered a case in Crime No.84 of 2011, under Section 306 IPC of Kurnool Town Police Station against the petitioners herein. Hence, the petitioners filed the present Petition to quash the proceedings in Crime No. 84/2011.

3. In spite of service of notice to the respondent No.2, who is the *de facto* complainant, Smt. V. Prameela, none appeared on her behalf. Hence, heard the arguments of the learned counsel for the petitioners 1,2 and 3 and learned Public Prosecutor.

4. The learned counsel for the petitioners submitted that the petitioners have not abetted deceased for commission of suicide. The petitioners have never harassed the deceased by not giving him promotion as his promotion was under process, and they don't have any intention to delay the promotion.

5. The learned counsel for the petitioners placed reliance on the Circular Memo No. G2/16216/2010 dated 30.11.2010 and submitted that the subjects of certain service matters pertaining to Class-IV employees of the Department, like promotions to the post of Junior Assistant from Class IV, transfers and deputation of Class-IV employees, have been reviewed by the CET and it was decided to delegate the powers vested with the CET (AP) in the State. In continuation of orders issued vide reference cited, orders of delegation of powers was made as follows:

Sl.No.	Subject	Cadre	Delegated to
1	Transfers	Class-IV	RDDs (App)
2	Deputations	„	„
3	Transfers on promotion to the post of Jr. Asst.	„	„

6. The learned counsel for the petitioner further drawn the attention of this Court to the letter No.B/34/2011 dated 25.02.2011, addressed by Deputy Director, (App). FAC, Regional Office, Tirupati to the District Employment Officer, Kurnool, calling for certain information of Class -IV staff, requested to furnish the copy of documents in respect of V.Kalyan Chakravorthi, Office Subordinate, District Employment Exchange, Kurnool, about his regularisation, declaration of probation, entered in the S.R. of the individual and charges, if any, pending.

7. It is further submitted that the 1st petitioner, the District Employment Officer (Full Additional Charge), Kurnool accordingly submitted the information vide letter No. A1/Estt./275/2011 dated 03.03.2011 to the Deputy Director (App), Regional Office, Tirupati, stating that he has enclosed Xerox copies of regularisation / declaration of probation in respect of Sri V.Kalyan Chakrovorthy, Officer Subordinate of their office as per service register as requested in the reference cited. Further he has informed that there are no charges / disciplinary cases pending against the individual. Therefore, it is argued that there are no laches on the part of the 1st petitioner in furnishing the information to the concerned authorities and there are no *mala fides* on his part in stalling promotion of the husband of the complainant.

8. The learned Public Prosecutor fairly submitted that there are no grounds to proceed against the accused A1 to A3, in the

light of the documents vide Cir. Memo No. G2/16216/2010 dated 30.11.2010, letter No. B/34/2011, dated 25.02.2011 and Lr.No. A1/Estt/275/2011 dated 03.03.2011, enclosed along with Criminal Petition.

9. Having regard to the facts and circumstances of the case, since, the allegations of the complainant that her husband was harassed by not considering his promotion by the petitioners, *prima facie*, does not appear that it would amount to abatement to commit suicide by the deceased. There are no specific allegations to attract the offence u/s 306 I.P.C. as the abatement has not established by any specific instances.

10. This Court in a petition filed under Section 482 Cr.P.C., has to see whether the *prima facie* ingredients of section 306 IPC are present or not. Section 306 IPC reads as follows:

“306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

As per Section 306 to attract the provision abatement must be present

U/s. 107, which states about abatement of a thing -

“A person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or intentionally aids, by any act or illegal omission, the doing of that thing. Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing. Illustration A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully

represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C. Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

11. In the instance case the allegation of the complainant is against the District Employment Officer (Full Additional Charge), Junior Employment Officer and Senior Assistant of District Employment Exchange, Kurnool that they have abated commission of suicide by the husband of *de facto* complainant. The grievance of the complainant is that her husband was not given promotion, though he was having qualification and deserved to be given promotion and that they harassed her husband in that regard. But there are no specific intention of abatement, stated in the complaint.

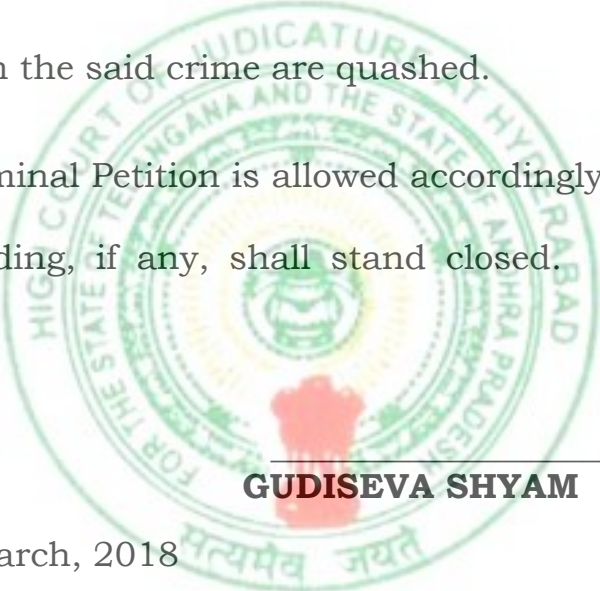
12. The materials placed by the petitioners would show that they are considering to give promotion to the husband of the complainant. The complaint neither attributed any *mala fides* nor made any specific allegations in respect of the abatement, which made her husband to commit suicide. Therefore, the registering of complainant by the police is sheer abuse of process of law.

13. In view of the forgoing reasons and in view of the fact that the 2nd respondent has not appeared, having receiving the notice nor represented through any counsel to make her submissions, and in view of foregoing reasons this court is of the considered view that there are no valid grounds to proceed further in the case.

14. It is also pertinent to note that this Crime is pertaining to the year 2011 vide Crime No.84/2011 of Kurnool II Town Police Station, Kurnool. Interim stay has been granted on 25th April 2011. Since, the alleged abatement to commit suicide is not present in the FIR contents, the offence under Section 306 is not attracted to the facts of the case.

15. Having regard to the facts and circumstances of the case, as there are no ingredients of Section 306 of IPC to proceed against the petitioners / Accused No.1 to 3 in Crime No.84 of 2011 on the file of Kurnool II Town Police Station, Kurnool, all proceedings in the said crime are quashed.

16. The Criminal Petition is allowed accordingly. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.



GUDISEVA SHYAM PRASAD,J

Dated: 19th March, 2018

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THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD



CRIMINAL PETITION No. 3511 of 2011

Dated: 19th March, 2018

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