

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No. 1851 OF 2011

ORDER:

1. This Criminal Petition under Section 482 Cr.P.C. is filed by Accused Nos. 3 to 5 seeking to quash the proceedings in PRC.No. 58 of 2010 pending adjudication on the file of learned Judicial First Class Magistrate, Chintalapudi, West Godavari District.

2. The contention of the petitioners is that there is no *prima facie* material to attract the ingredients of Section 306 IPC. The very statements under Section 161 Cr.P.C. made by the mother of the deceased-Nallamilli Mariyamma, Thaidula Subba Rao & Thaidula Bhaskar Rao (relatives of the deceased), Nallamilli Amala (sister of the deceased), Nallamilli Venkatesh (Uncle of the deceased), Nallamilli Shyam Babu (niece of the deceased) and Mankabatholu Bhushanam (neighbour) reveal that on 7.6.2010 at about 6.00 AM, all the accused assaulted the deceased and bet him indiscriminately, as a result of which, the deceased felt humiliated and consumed pesticide poison, which according to the petitioners does not attract the offence punishable under Section 306 IPC. It is further contended that initiation of prosecution against the petitioners for the alleged offences punishable under Sections 306 IPC is nothing but abuse of process of Court inasmuch as the entire prosecution does not

reflect the ingredients of Section 306 IPC. It is further contended that no injuries are noted on the dead body of the deceased and hence Section 323 does not attract.

3. Whereas, learned Additional Public Prosecutor contended that there is specific overt act attributed against the petitioners/accused in the charge sheet. It is contended that the deceased felt in love with the first petitioner/A.3 and they were in love with each other since three years prior to the incident. While so, on 7.6.2009 all the accused called the deceased to their home, bet him indiscriminately at about 6.00 AM, abused, insulted and him, due to which, the deceased having frustrated himself, consumed pesticide position and committed suicide on account of humiliation caused to him. Thus the acts committed by the petitioners/accused clearly attract the ingredients of the provisions under Sections 323 and 306 IPC.

4. POINT:

Now the point that arises for determination is,

“ whether there is prima facie material to prosecute the petitioners.”

5. The main contention of the learned Counsel for the petitioners is that there is no material attracting the ingredients of offences punishable under Sections 323 and 302 IPC.

Per contra, learned Additional Public Prosecutor submits that there was love affair between the first petitioner/A.3 and

deceased since three years prior to the incident; while so on 7.6.2009 at about 6.00 am all the accused called the deceased to their house, bet him indiscriminately, abused him in filthy language, and insulted, due to which, the deceased having frustrated himself, consumed pesticide position and committed suicide on account of humiliation caused to him.

6. A perusal of charge sheet reveals that A.2 is the wife of A.1, and A.3 is the daughter of A.1 & A.2. A.4 is the grand father of A.3 and A.5 is the maternal uncle of A.3. In the complaint lodged by the mother of the deceased, there is specific allegation that since five years prior to the incident, the first petitioner/A.3 and the deceased were in love with each other, to which, the parents of A.3 objected to. While so on 7.6.2009 at about 6.00 am, the accused summoned the deceased to their house and all the accused A.1 to A.5 bet him indiscriminately, abused him in filthy language, insulated and humiliated him, as a result of which, the deceased having frustrated himself, consumed pesticide poison on the way to his house. Immediately the complainant with the help of others shifted him to Government Hospital, Jangareddigudem in 108 ambulance. While undergoing treatment, he died on the night of 7/8.06.2009 at 2.30 AM. Post Mortem examination was conducted on the dead body of the deceased wherein the Doctor opined that the cause for death of the deceased was due to consumption of insecticide poison--Endo Suplphan poisonous substance. In view of the specific overt act

that the accused summoned the deceased to their house, bet him indiscriminately, abused insulted and humiliated him, due to which, having frustrated, the deceased consumed pesticide and committed suicide.

7. For the foregoing discussion, it is clear that there is *prima facie* material to attract the ingredients of offences punishable under Sections 306 and 323 read with 34 IPC. There is nothing to suggest that the second respondent abused the process of Court in lodging complaint and caused prejudice to the petitioners.

8. Finding no merit in the Criminal Petition, the same is dismissed accordingly.

9. Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 12th February, 2018.
Msnr_x