

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.6284 of 2018

ORDER

This petition under Section 482 of Cr.P.C., is filed to quash the proceedings in Cr.No.333 of 2018 of Chandanagar Police Station, Cyberabad, registered for the offence under Section 306 IPC, against the petitioners/A1 and A2.

2. The second respondent-de-facto complainant lodged a written report with the police alleging that he is an auto driver bearing No.TS 15 UA 9609 and that on 23.05.2018, at about 1645 hours, one passenger engaged his auto to go to Gangaram, R.S. Brothers, Chandanagar and while he was travelling, he fell down in the auto at about 1700 hours and immediately he stopped the auto and with the help of nearby auto driver, called 108 ambulance and the staff of 108 ambulance came and examined the passenger and declared as dead. At that time, the deceased was found in possession of one bag containing a pesticide bottle, purchase receipt of bottle from Saibalaji Fertilizers, Seeds and Pesticides and also a letter written in Telugu, wherein it is mentioned that Kakinada Tataji and Hyderabad Varma were harassed his son, by name, Srikanth and they are responsible for his death and his name is mentioned as Y. Srihari. Based on the report, the police registered the above crime and issued FIR.

3. The present petition is filed by petitioners/A1 and A2 on the ground that their names are not mentioned in the FIR and in the

complaint also, the names of Kakinada Tataji and Hyderabad Varma are mentioned and therefore, they are no way concerned with the said offence, and even if the allegations in the letter are accepted, it would not constitute the offence under Section 306 IPC. When the allegations in the report do not disclose the commission of any offence much less the offence under Section 306 IPC, the proceedings against the petitioners are liable to be quashed since there is no specific allegation against them in the written report to attract the offence punishable under any penal law and requested to quash the proceedings against them.

4. Though notice was served on the unofficial second respondent, none appeared on his behalf.

5. During hearing, learned counsel for petitioners Sri Challa Dhanamjaya, contended that none of the allegations made in the written report do not constitute the offence punishable under Section 306 IPC and mere reference of names of petitioners, who allegedly harassed the son of the deceased, is not sufficient to constitute the said offence and therefore, in the absence of any allegation to drive the deceased Y. Srihari to commit suicide, the petitioners cannot be proceeded for the said offence.

6. The Public Prosecutor for the State of Telangana opposed the petition on the ground that the proceedings against the petitioners cannot be quashed since the investigation is not yet commenced.

7. In view of the specific ground urged by the counsel for petitioners, it is necessary to advert to the allegations made in the written report, which is the basis of issuance of FIR, setting the criminal law into motion. Even according to the allegations, one Kakinada Tataji and Hyderabad Varma are responsible for the death of the deceased Srihari as they harassed his son Y. Srikanth. Therefore, the specific allegation made against the petitioners is that they are responsible for the death of the deceased and the reason for commission of suicide was that they harassed the son of deceased. Therefore, even if the allegations are accepted on its face value, the cause mentioned in the letter that the petitioners used to harass the son of deceased is not direct cause for commission of suicide by the deceased. An identical issue came up before this Court in **V. Shankaraiah v. State of A.P**¹, wherein, this Court held that, committing of suicide on account of the feeling of humiliation does not attract offence punishable under Section 107 IPC i.e. abetment.

8. Section 306 IPC discloses that 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.

9. Here, the cause for commission of suicide was the alleged harassment of Srikanth, who is the son of the deceased, by petitioners. This is not the direct cause which led the deceased to commit suicide. It has been time and again, the Apex Court

¹ 2002 (1) ALD Cri 812

considered the scope of Section 306 IPC and held that once the abetment of commission of suicide is clearly made out against the accused despite the fact that the basic constituents of offence under Section 306 IPC i.e., suicidal death, abetment thereof has to be considered. Here, the alleged abetment attributed to petitioners to commit suicide by deceased is harassment of his son.

10. The word 'abetment' is defined under Section 107 of IPC is as follows:

"A person abets the doing of a thing, who-

First- Instigates any person to do that thing; or

Secondly: 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

Thirdly: Intentionally aids, by any act or illegal omission, the doing of that thing.

11. In the present case, the petitioners did not instigate the deceased or engaged any one or more persons in any conspiracy for the doing of that thing i.e., driving the person to commit suicide or did omission of any act, which intentionally aids him to commit suicide either by any act or illegal omission. But because of the alleged harassment of his son by petitioners, the deceased committed suicide. To attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary, as held by this Court in **Pallem Deniel Victorians Victor Manter v. State of Andhra Pradesh**². To constitute the offence under Section 306 IPC, there must be a

² (1997) 1 Crimes 499 (AP)

suicide and abetment. Here in this case, the suicide is an undisputed fact, but there was no abetment.

12. In view of the principle laid down in the said judgments, I find no material to constitute the offence of abetment under Section 107 IPC, which led the deceased to commit suicide, which is punishable under Section 306 IPC. In such case, the continuation of investigation against the petitioners is an abuse of process of the Court. In the absence of any allegations to constitute an offence, the Station House Officer will not get jurisdiction as held by the Apex Court in **Central Bureau of Investigation v. V.C. Shukla**³. By applying the principles laid down in the said judgment to the present facts, I find that it is a fit case to quash the proceedings against the petitioners/A1 and A2.

13. In the result, the Criminal Petition is allowed quashing the proceedings in Cr.No.333 of 2018 of Chandanagar Police Station, Cyberabad, against the petitioners/A1 and A2. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

10th August, 2018

sj

³ AIR 1998 SC 1406