

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11332 of 2018

ORDER:

The petitioners are accused Nos.4 to 7 of crime No.977 of 2018 registered by SHO LB Nagar Police Station, Rachakonda dated 16.08.2018 for the offences punishable under Sections 304-B, 302 r/w 34 IPC against 7 accused. It is outcome of the report the 2nd respondent-defacto complainant.

2. The sum and substance of the report of the defacto complainant in registration of the crime reads that out of his one son and two daughters, the eldest daughter Aleesha Shainazee Khareem's marriage was performed 5 years back with Ibrahim (CA)-A1 S/o. M.A. Raheem-A2 through elders. Said Ibrahim earlier married another person and there was a divorce through Court of law. His son in law-A1 and his mother Mazhar Jaha-A3 and his sisters i.e., Ayesha Bhanu-A4, Aziza Banu-A5, Anzum Banu-A6, Raisa Banu-A7, are harassing and ill-treating on the grounds of his daughter not conceived in the wedlock with A.1. His daughter undergone treatment in hospitals provided by him and about 11 months back she conceived and gave birth to a male child. Even after birth of the male child the accused persons ill-treated his daughter, the defacto complainant was consoling his daughter-victim to put up their onslaughts and also raised panchayat and there is no change in the conduct of accused

even after said panchayat through elders and all the accused were harassing to bring gold jewellery by unheeding to the impossible to meet their demands. It was while so, on the report dated 16.02.2018 his daughter was killed by the accused persons and they created a scene as if she committed suicide by hanging and at about 7 PM in the night on that day he received a phone call from A1 then the defacto complainant, his wife and son rushed to Hasthinapuram and found the dead body lying on the cot. He is suspecting that his daughter was killed by her husband A.1, his parents A.2 and A.3 and sisters A.4 to A.7. It is therefrom the crime was registered for the offences supra by issuing express FIR. It is during course of investigation A.1 to A.3 were arrested by the police on 20.08.2018 and were submitted to judicial custody with remand report of even date and the said remand report running in 6 pages refers that by then so far 17 witnesses were examined viz., defacto complainant as LW.1, his wife LW.2, his son-LW.3, his another son-in-law-LW.4, maternal uncle and aunt of the deceased LWs.6 & 7, another brother-in-law of the deceased-LW.8 and the neighbour of the house of the accused-LW.5 besides punch witness to the scene observation and inquest panchanama conducted by Tahsildar and the postmortem conducted by the duty doctor. Among the other besides LWs.18 to 20 are IOs who issued the FIR, later while investigation who apprehended the accused and submitted to judicial custody as part of investigation with the

remand report supra. The remand report reads that A.1 killed the deceased by strangulation with black colour adopter cable wire tied around her neck and when she was in drowsiness took her into the wash room and hanged her to a geyser pipe with a chunni. It is thereby accused persons killed the deceased at his house at door No.8-7-92/33, plot No.33, Hastinapuram north, LB Nagar. It also speaks about the contents of the FIR and the statement of the defacto complainant-LW.1 by the time the report received and crime registered and visited the scene of offence as part of investigation, the dead body was lying on the bed and after conducting scene observation and seizure of incriminating material from the scene of offence, inquest conducted from the requisition from the Tahsildar over the body of the deceased where examined and recorded the statements of LWs.1 to 5 in the hospital mortuary and after PM examination through doctor the body handed over to the kith and kin. In the course of further investigation arrested the accused persons 1 to 3 at their residence on 20.08.2018 in the presence of mediators and when interrogated made a disclosure of their complicity to their crime by A.1 to A.3 and submitted to judicial custody. It is also mentioned about the dowry demands despite meted the demands for dowry at the time of marriage of the deceased with A.1 on 02.09.2013 in cash and kind, further two months after marriage A.1 taken the deceased along with A.3 mother of A.1 to Qatar where

accused removed the maid servants of the house and deceased to work as maid servant of the house and all the accused Nos.1 to 7 harassed the deceased on the guise of she did not bless with the children and lastly after she gave birth to male child on 22.08.2017, they did not even stop their harassing but continued physically and mentally to meet additional demand of gold jewellery despite the inability and despite deceased was putting up from the consolation by the defacto complainant and family members. It is further stated for every 6 months A.1 and deceased used to visit native residence from Qatar and whey they were in Doha at Qatar country A.2, A.3, A.6 & A.7 also used to visit to their residence at Doha and there also they harassed the deceased mentally and with no change despite panchayat held before elders complaining the harassment and ultimately on 15.08.2018 A.1 and deceased along with male child return from Doha to Hastinapuram, his parents place and on 16.08.2018 at about 07.00 PM A.1 strangled the neck of the deceased with black colour adopter cable wire to death and when she was in drowsiness took her into the wash room and hanged her to a geyser pipe with a chunni and thereby killed and A.1 to A.7 thereby committed the offences supra. The remand report speaks that A.1 to A.3 are residents of Hastinapuram at door No.8-7-92/33 at plot No.33 which the scene of offence where the deceased was killed. A.4 shown resident of Uppal near LB Nagar Hastinapuram, A.5 shown

resident of Vikarabad about 50 kms or so to Hastinapuram and A.6 and A.7 are unmarried sisters of A.1 and A.4 and A.5 are married sisters. It also shows A.6 and A.7 also residing with A.2 and A.3 their parents where A.1 and deceased were staying at the time of the occurrence.

3. In the factual background the quash petition is filed with the contentions that A.4 and A.5 were not in the house of deceased and other accused at the time of death of deceased, for A.4 and A.5 are married women, A.4 staying at Bodduppall and A.5 staying at Vikarabad respectively with their husbands and A.6 and A.7 the unmarried sisters of A.1 and daughters of A.2 & A.3 are together residing at Hastinapuram. A.1 and the deceased were staying at Qatar and they came to India a day before the occurrence on 15.08.2018 from Doha of Qatar where A.1 was working as CA in Qatar Petroleum as reporting analyst/manager. It is the contention that defacto complainant-2nd respondent falsely roping the petitioners/A4 to A7 without even any basis even to suspect any of their role. It is also the contention that but for staying at Doha deceased and A.1 till a day prior to the death of the deceased not staying with A.2 & A.3, A.6 & A.7 and any harassment for additional dowry by them does not arise for the false implication on suspicion and the prosecution version of the defacto complainant in registration of the crime is highly improbable to believe against any of A.4 to A.7 with such a grave offence. A.6 & A.7 are unmarried

daughters of A.2 & A.3 and sisters of A.1 and it effects their future by such false implication for A.7 still a college going student to effect her career with mental agony in foisting a false case though A.4 to A.7 are nothing to do with the alleged offence and thereby sought for quashing the proceedings against them. It is averred that none of the petitioners/accused got any criminal antecedents and thereby sought for quashing.

4. Pending investigation in Crl.M.P.No.4326 of 2018 dated 12.10.2018 the learned XIV Additional Metropolitan Sessions Judge, granted anticipatory bail to petitioners/A.4 to A.7 saying A.2 and A.3 were released on bail, A.4 to A.7 shown in abscondence who are sisters of A.1 of whom A.4 & A.5 are married sisters of A.1 and A.6 & A.7 are unmarried sisters of A.1 who are students and A.4 & A.5 residing far away from A.1 and the accusation attributed no way sustains and A.2 and A.3 already enlarged on bail thereby granted anticipatory bail to A.4 to A.7 by the learned Sessions Judge that was also referred and relied in the quash petition.

5. The contentions of the learned counsel for the defacto complainant in opposing said quash petition grounds and contentions are that it is a brutal murder with nefarious plan and the case is under investigation, the petitioners already enlarged on bail and there are no grounds to quash the proceedings pending investigation for FIR need not be an encyclopedia and thereby sought for dismissal of the petition.

6. Heard and perused the material on record.

7. From the remand report dated 20.08.2018 in filing the quash petition on 25.10.2018 more than 2 months after the said remand report there are only general allegations so far as against A.4 & A.5 along with others among A.1 to A.7 while particular allegations against A.1 of harassment and ill-treatment for more dowry including for jewellery in the recent past before the victim breathed last. There are no any specific instances and it is not the case from the record that A.4 and A.5 present at the time of the so called murder of the deceased by A.1 with any role of A.2, A.3, A.6 & A.7 where all living together. Out of A.4 & A.5 as referred supra, A.4 is shown resident of Uppal or Boduppal and A.5 resident of Vikarabad.

8. From the prosecution case, the deceased was killed by tied around her neck black colour adopter cable wire and after she went in drowsiness taken the deceased into the wash room and hanged to a geyser pipe with a chunni. It is not possible by the role of A.1 alone to take even the victim under drowsiness to the wash room and tie with chunni and hanging by leaving the body to geyser pipe. From the scene observation referred in the remand report there is nothing to show there was any stool or support if at all the victim hanged herself that itself clearly indicates she was killed to the prima facie conclusion of prosecution including from the investigation so far done referred supra. Once such is the

case, it is difficult to say there is no role of A.2, A.3, A.6 & A.7 but for if at all of A.4 & A.5 who are not residents of same house but at different places supra. In his report nor the remand report nothing shown about A.4 & A.5 also present at the time of occurrence to make them liable for the offence under Section 302 IPC but for at best under Section 498-A IPC if at all for which even there are no any specific overt acts of A.4 & A.5 from the remand report and FIR.

9. Having regard to the above, the petition can be allowed by quashing the proceedings only against petitioner Nos.1 & 2/A.4 & A.5, however in the course of investigation any of their complicity revealed for any offence under IPC this is not a bar for their inclusion, final report to be filed.

10. With these observations, this Criminal Petition is partly allowed by quashing the proceedings against A.4 & A.5 and dismissed so far as A.6 & A.7.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 20.12.2018
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