

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.9847 OF 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner-A.5 to quash the proceedings in S.C. No.62 of 2017 on the file of the Assistant Sessions Judge, Nandigama, Krishna District, registered for the offence punishable under Section 306 IPC.

2. Heard the learned counsel for the petitioner and learned Assistant Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioner would submit that there are no allegations against the petitioner-A.5 constituting the offence alleged and there is no mention about the petitioner-A.5 committing the offence punishable under Section 306 IPC in the suicide notes purported to have been written by the deceased; that the trial Court did not properly appreciate the facts and circumstances of the case and erroneously dismissed the discharge application filed by the petitioner-A.5 in CrI.M.P. No.49 of 2017 in Session Case No.62 of 2017 on 25.09.2017, and ultimately, prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor opposed the grant of relief sought in the Criminal Petition.

5. The material on record reveals that the suicide note purported to have been written by the deceased discloses that the petitioner-A.5 along with other accused, is responsible for death of the deceased. There is also mention in the statements of witnesses recorded during the course of

investigation that the petitioner-A.5 along with other accused threatened the deceased, insulted and humiliated him, and that the petitioner-A.5 along with other accused, is responsible for commission of the subject suicide by the deceased. The court below has meticulously dealt with the subject discharge application, answered all the contentions raised on behalf of this petitioner-A.5 and other accused and held that whether there was *mens rea* on the part of the petitioner-A.5 or not, would be established only after due trial. It is further held that the broad test to be applied is whether the material on record, if unrebutted, makes conviction possible, and the Court need not go in deep with the allegations and give a finding while framing charges. If the court concludes that if the allegations made against the accused are not rebutted, then if it leads to conviction, that would be sufficient to frame charges and proceed with the case. Innocence or otherwise of the petitioner-A.5 is required to be decided after due trial only. As the allegations made out a *prima facie* case against the petitioner-A.5, there is no infirmity in the impugned order passed by the trial Court. The Criminal Petition is devoid of merit and is liable to be dismissed.

6. The Criminal Petition is, accordingly, dismissed. Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

DR. SHAMEEM AKTHER, J

DATED: 25-01-2018

DRK

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DRK

25.1.2018