

HONOURABLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No. 503 of 2019

ORDER:

1. The petitioners, who are accused Nos.2 and 3, in S.C.No.582 of 2017 on the file of the VII Assistant Sessions Judge-cum-Senior Civil Judge at Ranga Reddy, filed the present Criminal Petition under Section 482 Cr.P.C., seeking to quash the proceedings in the said S.C., which was taken on file against them and one Marri Venkatesh (accused No.1) for an offence punishable under Section 306 of IPC.

2. The case of the prosecution, in brief, is that on 17.07.2015 at 0800 hours, one Burra Anjaiah, lodged a complaint with the police stating that his younger brother Burra Lakshminarayana left home on 16.07.2015 at about 1.00 P.M. and in the evening when the wife of said Bura Lakshminarayana telephoned him, he informed that he was returning home, but he did not return home till night. They came to know through police that the said Lakshminarayana consumed pesticide and died in the Forest area of Gurramguda. He further stated in the complaint that the said Burra Lakshminarayana was suffering from financial problems for the last few years, as a result of which, he

committed suicide. Basing on the said complaint, the Inspector of Police, Vanasthalipuram Police Station, Cyberabad, registered a case in Crime No.603 of 2015 under Section 174 Cr.P.C. and investigated into the case.

3. Thereafter, the Sub Inspector of Police, Vanasthalipuram Police Station took up investigation. During the course of investigation, it is revealed that one Burra Lakshmi Narayana (hereinafter referred to as "the deceased"), aged 35 years, is the cousin brother of the complainant. LW.2 (Burra Swapna) is the wife of the deceased and their marriage took place about nine years prior to the incident. Out of their wedlock, they were blessed with two children and they are residing in H.No.13/A, Sri Krishna Nagar, Green Hills Colony, Kothapet, Ranga Reddy District. The deceased was an RMP doctor by profession and running a Clinic under the name and style as "Sri Sai Teja Poly Clinic" at Mall. Accused No.1 is a childhood friend of the deceased and they are natives of Namapuram Village, Nalgonda District. In the year 2004, accused No.1 started money broker business in the name and style as "Lavanya Pawn Broker" and he used to mortgage the gold and taking loans on less interest and invested into the Real Estate business. In that process, accused No.1 had taken

an amount of Rs.4.00 lakhs as hand loan from the deceased at Rs.2.50 paise per month and paid interest for few months only. As accused No.1 sustained loss in his business, he stopped the payment of monthly interest to the deceased and also did not pay the principal amount. The deceased used to ask accused No.1 to return his amount, but he postponed the same on one pretext or the other due to paucity of funds. Moreover, accused No.1 lured the deceased to join in Rs.2.00 lakhs chit run by him and he would adjust that interest amount to the monthly chit amount. Believing his words, the deceased joined in the said chit group. Despite lifting the chit, accused No.1 did not give the chit amount and caused mental agony to the deceased. In the year 2009, a case in Crime No.1322 of 2009 on the file of Saroornagar Police Station, Cyberabad, came to be registered against accused No.1, in which he was remanded to judicial custody. The father of the deceased Burra Marraiah is having a Plot No.33, admeasuring 247 square yards, situated at Sy.Nos.89 and 90 at Turkeyamjal Village, Hayathnagar Mandal. The deceased wanted to dispose off the said plot to start a clinic with that sale proceeds and the same was informed to accused No.1. On that accused No.1, with an evil intention in order to grab the property, asked the deceased to give the documents to him so

that he will get it disposed off through his friend, who is doing Real Estate business, but the deceased refused to give original papers and asked him to come on the next day. Thereafter, the deceased handed over the original documents of the plot, but accused No.1 failed to fulfil his commitment once again. When the deceased asked about the disposal of his plot, accused No.1 told him that the original documents were misplaced. When the deceased demanded him to return those documents in order to dispose of the said plot to clear off his dues, accused No.1 replied that he could not do anything as he is also in deep debts. As there was no other option, the deceased took a hand loan of Rs.2.00 lakhs from accused Nos.2 and 3 with interest at the rate of Rs.2/- per month. On 16.07.2015, accused Nos.2 and 3 came to the house of the deceased and quarrelled with him and demanded him to return their amount and also insulted him saying that if he was not capable of repaying the amount, why he had taken the amount and that, either he had to clear off the dues or to die. On the same day in the afternoon at about 1.00 P.M., the deceased left home and did not come home in the evening. The wife of the deceased made phone calls, but he did not respond. The deceased went to the Forest area in Gurramguda, Hayathnagar Mandal and consumed

Organophosphate insecticide and died. The deceased left a suicide note by mentioning the names of accused Nos.1 to 3 and narrated how they harassed him for money. Accused Nos.1 to 3 have tortured and caused mental agony to the deceased and their acts put him deep debt traps, as a result of which, he had taken extreme step of committing suicide. After completion of investigation, the Sub Inspector of Police, Vanasthalipuram Police Station, laid a charge sheet against the accused for the offence punishable under Section 306 of I.P.C. and the same was taken on file as S.C.No.582 of 2017 on the file of VII Assistant Sessions Judge- cum - Senior Civil Judge, Ranga Reddy District.

4. Though notice served on the second respondent, he did not choose to appear either in-person or through any Counsel. Hence, heard learned Counsel for the petitioners/A2 and A3 and learned Additional Public Prosecutor appearing for the respondent-State.

5. It has been submitted by the learned Counsel for the petitioners that the entire allegations in the complaint and charge sheet do not disclose the ingredients of Section 306 of IPC. The First Information Report and Charge Sheet show that the petitioners herein have advanced hand loan of Rs.2.00

lakhs to the deceased and they harassed the deceased to repay the said debt and, therefore, the deceased has committed suicide as he was unable to repay the debt. It is stated that mere mentioning of names in the suicide note is not sufficient to connect the petitioners with the crime. It is also submitted that there is nothing on record to show that the petitioners abetted the deceased by instigation or aiding to commit suicide. The petitioners have been falsely implicated in the present case. Relying upon the judgment of the Apex Court in *SANJU @ SANJAY SINGH SENGAR V. STATE OF MADHYA PRADESH*¹, the learned Counsel would contend that the ingredients of Section 107 of IPC are not at all made out and as such the petitioners could not be prosecuted for an offence punishable under Section 306 of IPC.

6. On the other hand, learned Additional Public Prosecutor would submit that the suicide note along with the material collected by the police during the course of investigation would establish that due to harassment of the petitioners only the deceased committed suicide. He further submits that the issue as to whether the petitioners have abetted or aided the deceased in commission of suicide being

¹ (2002) 5 SCC 371

a mixed question of fact and law, has to be established during the course of trial.

7. Before proceeding further, it would be relevant to have a look at the suicide note of the deceased.

8. The suicide note, which is in Telugu, indicates that the deceased borrowed an amount of Rs.2,00,000/- from the petitioners/A2 and A3 with interest at Rs.2/- per month, but he paid only part payment. The petitioners/A2 and A3 harassed him to pay the balance amount and they also demanded him to fix a time limit. On their pressure, the deceased promised them that he can pay the amount on or before 15.06.2015, but he paid only Rs.50,000/- on 30.06.2015 and failed to pay the balance amount. Hence, the petitioners asked him to pay the amount on or before 15.07.2015. Since the amounts were not paid by the deceased and apprehending that if he will not pay the balance amount by 15.07.2015, the petitioners will come to the house and torture him to pay the loan amount, he committed suicide stating the petitioners/A2 and A3 are responsible for his death.

9. The question is whether the aforesaid averments in the suicide note constitute an offence punishable under Section 306 of I.P.C. or not. In the absence of any presumption, an

offence under Section 306 of I.P.C would stand only if the element of intentional aiding or abetment is made out. Section 306 of I.P.C deals with abetment of suicide and section 107 of I.P.C deals with abetment of a thing. They read 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.”

“107. Abetment of a thing.—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.

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.

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 facilitates the commission thereof, is said to aid the doing of that act.”

10. Section 107 of IPC states that 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, or the person should have intentionally aided any act or illegal omission. The explanation to section 107 of IPC further says that any wilful misrepresentation or wilful concealment of a material fact which he is bound to disclose may also come within the meaning of abetment.

11. The decision relied upon by the petitioners in the case of **SANJU** (1 supra) was a case where the deceased was in great stress and depression on the ground that he was without any work or avocation and at the same time as revealed from the statement of his wife Smt. Neelam Sanger, that he was frustrated man, lead to commission of suicide. Therefore, the Court held that the said suicide cannot be a direct result of quarrel that took place on 25-7-1998. Viewed from that angle, the Apex Court held that ingredients of abetment are totally absent.

12. In the instant case, in the suicide note, except stating that the petitioners have harassed the deceased to pay the loan amount, there is no reference to any act or a specific incident whereby both of them committed a wilful act or

intentionally aided or instigated the deceased in committing suicide. Unable to pay the loan amount within the stipulated time and apprehending that the petitioners would come to the house and create a galata, the deceased committed suicide. Mere mentioning of names in suicide notice without any specific instance of intentional aiding or provoking the deceased to commit suicide would not by itself amount to an offence under Section 306 of IPC. Vague and general averments in the suicide note will not satisfy the requirements of Section 107 of IPC. Hence, the allegations in the charge sheet do not constitute the offence punishable under Section 306 of IPC.

13. Accordingly, this Criminal Petition is allowed. The proceedings against the petitioners/A2 and A3 in S.C.No.582 of 2017 on the file of the VII Assistant Sessions Judge-cum-Senior Civil Judge at Ranga Reddy, are hereby quashed.

14. Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE G.SRI DEVI

04.11.2019
gkv/Gsn

