

THE HONOURABLE SRI JUSTICE K. LAKSHMAN**CRIMINAL PETITION No.441 of 2018****ORDER:**

This Criminal Petition is filed under Section 482 of Cr.P.C. seeking to quash the proceedings in S.C.No.330 of 2018 pending on the file of the IV Additional Metropolitan Sessions Judge at Hyderabad.

2. Petitioners Nos.1 and 2 herein are accused Nos.1 and 2, respectively, in the said C.C. The offence alleged against petitioners them is under Section 306 I.P.C.

3. The allegations against the petitioners herein in the charge sheet are as follows:-

The daughter of respondent No.2 herein i.e., Smt Suhasini (hereinafter referred to as “the deceased”) and the elder son of the petitioners herein i.e., I.Satyanarayana Krishna Prasad, fell in love with each other while studying in Nizam College, Hyderabad. The petitioners herein-parents of the said I.Satyanarayana Krishna Prasad, objected for their marriage, but however, on his pressure, they performed his marriage with the deceased. Earlier to the marriage also, the petitioners herein mentally tortured the deceased and her family in respect of their status and financial position. After marriage, the deceased joined her husband at her in-laws house, but, she and her husband could not get on well with each other and shortly thereafter, they moved out of

the house and shifted to a rented house at BHEL Enclave and ultimately, to the parents' house of the deceased at Madhuranagar. The petitioners herein tried to influence their late son (husband of the deceased) through phone to come and live with them, but he did not heed to their advice. The petitioners herein failed to show love and affection towards their son. He sustained losses in the business i.e., as a dealer of Yamaha Motors in M.G. Road and since he married the deceased against their will and wish, the petitioners herein have not supported their son and therefore, disgusted with the acts of his parents and also due to financial crisis, he committed suicide by hanging himself on 31.01.2007 and a case in Crime No.26 of 2007 was registered by Keesara Police Station under Section 174 Cr.P.C. Thereafter, accused Nos.2 and 4 started creating rumours that the deceased is responsible for her husband's death and she has an eye on his vast properties. The accused including the petitioners herein alleged that the deceased is a socialite lady and always wants to lead her willful life. Since the deceased mental characterised by a nervous sagacity of inadequacy and became despondent due to the acts of her in-laws even after the death of her husband and she was abetted by the petitioners herein to commit suicide by hanging herself leaving a suicide note.

On the complaint lodged by respondent No.2 herein, the Police of Humayan Nagar Police Station have registered a case in Crime No.98 of 2007 for the offence under Section 306 IPC against the petitioners herein and other

accused. After completion of the investigation, the Police have filed charge sheet against the petitioners herein and other accused and the same was numbered as PRC.No.3 of 2008 on the file of the V Additional Chief Metropolitan Magistrate, Hyderabad. Thereafter, it was committed to the Court of Sessions and numbered as S.C.No.330 of 2018 on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad.

4. Heard Smt K.Sesharajyam, learned senior counsel representing Sri K.Chaitanya, learned counsel for the petitioners and the learned Public Prosecutor appearing for respondent No.1-State.

5. Smt K.Sesharajyam, learned senior counsel, would submit that the contents of the charge sheet lack the ingredients of the offence alleged against the petitioners herein. Even in the suicide note alleged to have been written by the deceased, there is no mention about the alleged harassment/abetment said to have been committed by the petitioners herein. There is no mention of the names of the petitioners herein and also there is no specific allegation against the petitioners herein in the suicide note and the only allegation is that the parents, sister and younger brother of her husband are indirectly responsible for her death. Except that, there is no other allegation.

6. Placing reliance on the principle laid down by the Hon'ble Apex Court in *State of Haryana and Others Vs. Bhajan Lal and others*¹, *S.S.Chhenna Vs. Vijay Kumar Mahajan and another*², *Gurjit Singh Vs. State of Punjab*³ and *S.R.Sukumar Vs. S.Sunaad Raghuram*⁴, learned senior counsel would submit that the contents of the charge sheet lacks the ingredients of the offence alleged against the petitioners herein. She would further submit that this Court quashed the proceedings against accused No.3 vide Criminal Petition No.1204 of 2008 and against accused No.4 vide Criminal Petition No.2957 of 2013 by orders dated 17.3.2011 and 13.11.2017, respectively.

7. With the above said submissions, the learned senior counsel sought to quash the proceedings in S.C.No.330 of 2018 pending on the file of the IV Additional Metropolitan Sessions Judge at Hyderabad, against the petitioners herein.

8. Despite service of notice, there is no representation on behalf of respondent No.2 herein.

9. Learned Public Prosecutor appearing for respondent No.1-State would submit that there are specific allegations against the petitioners herein in the statements recorded by the Police under Section 161 Cr.P.C. and also under Section 164 Cr.P.C. In the suicide note written by the deceased, it was

¹ AIR 1992 SC 604

² (2010) 12 SCC 190

³ (2020) 14 SCC 264

⁴ (2015) 9 SCC 609

specifically mentioned that the reason for her death is out of mental harassment by the parents, sisters and younger brother of her husband. Mental harassment also includes abetment to commit suicide. The petitioners herein have alternative remedy of filing discharge application in the said Sessions Court and instead of availing the said remedy, they have filed the present Criminal Petition seeking to quash the proceedings in S.C.No.330 of 2018 pending on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad.

10. With the above said submissions, the learned Public Prosecutor sought to dismiss the Criminal Petition.

11. The above stated facts would reveal that the marriage of the son of the petitioners herein with the deceased was a love marriage. Though initially, the petitioners herein objected for the said marriage, on the pressure of their son, they have performed the said marriage. Even as per the contents of the charge sheet, after the marriage, the deceased and her husband lived in the petitioners' house and after some time, they moved out of the house and shifted to a rented house in BHEL Enclave. The son of the petitioners herein was a dealer of Yamaha Motors in M.G. Road. According to the deceased, since their marriage was against the will and wish of the petitioners herein, they have not extended any financial support to their son when he sustained losses in the business and therefore, the son of the petitioners herein committed suicide on 31.01.2007 and a case in Crime No.26 of 2007 was registered under Section 174 Cr.P.C.

Thereafter, the deceased has also committed suicide on 07.3.2007 i.e., nearly one month after the death of her husband.

12. The allegation against the petitioners herein is that after the death of the husband of the deceased, accused Nos.2 and 4 started creating rumours that the deceased is responsible for the death of her husband and she has an eye over his vast properties.

13. The contents of the suicide note of the deceased, which are relevant, are extracted hereunder:

“For me, without Krishna life is just impossible. Krishna defeat cannot be considered as winning at any time. Krishna fought with his foolish family members and was defeated. He has forgotten me in his sorrow. He broke his promise of being with me forever but I cannot break it.

Whatever belongings I mentioned with C.I. Murali, have to reach my mother. And all my husband’s properties should go to Akshayapathra Foundation (ISKON). His family members do not deserve any of his properties. This is my last wish. Reason directly to my husband’s death, indirectly to my death mental harassment from his parents, sister and younger brother.

Mother please cover my body with green saree. Krishna’s last gift. Please mother I spoke to Amer, Chandra Kanth, Teja. I wanted to speak to Bablu, Rajesh, but they are abroad.”

14. In the above said suicide note, the only allegation made by the deceased is that the reason directly to her husband’s death and indirectly to her suicide is the mental harassment by the parents, sisters and younger brother of her husband. Except that one sentence, there is no other allegation against the petitioners herein.

15. Section 306 IPC deals with abetment of suicide. As per which, 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.

16. The Hon'ble Apex Court in **S.S.Chheena**'s case (2nd supra) categorically held that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committed suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear *mens rea* to commit the offence. It also requires an active act of direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

17. In **Gurjit Singh**'s case (3rd supra), the Hon'ble Apex Court held that the Court has to see whether the accused has abetted the commission of suicide by intentionally instigating her to do so. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act" – To satisfy the requirement of instigating though it is not necessary that actual words should be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequences – Yet a reasonable certainty to incite the

consequences must be capable of being spelt out – Even if the presumption under S.113 A of the Evidence Act could be drawn, the burden of proof of showing that such an offence has been committed by the accused is on the prosecution – Prosecution has to establish beyond reasonable doubt that the accused had instigated, conspired or intentionally added so as to drive the wife to commit suicide.

18. In view of the above law laid down by the Hon'ble Apex Court, in the present case, as discussed supra, there are no such allegations against the petitioners herein.

19. In the instant case, there is no mention of the names of the petitioners herein and the alleged abetment by them in the suicide note. The Police have filed charge sheet based on the statements of witnesses recorded under Section 161 Cr.P.C. The Investigating Officer has not recorded the statement of any independent witnesses. L.W-1 is the mother and L.W-2 is the sister of the deceased and L.Ws.3 to 5 are circumstantial witnesses. Thus, there is no direct witness to the alleged abetment by the petitioners herein to commit suicide by the deceased.

20. It is relevant to note that the only allegation in the suicide note of the deceased is that the petitioners herein and accused No.3 and 4 are directly

responsible for the death of their son and indirectly to her death. It is only mental harassment.

21. At the cost of repetition, it is relevant to note that in the suicide note written by the deceased, there is no mention about the spread of rumours by accused Nos.2 and 4 that she is responsible for the death of her husband. It appears that the Police have mentioned the same in the charge sheet as per the statements of witnesses recorded under Section 161 Cr.P.C.

22. It is also relevant to note that this Court *vide* order dated 17.3.2011 in Criminal Petition No.1204 of 2008 quashed the proceedings in PRC.No.3 of 2008 against accused No.3 with the following observation:

“On perusal of the records, it is evident that the petitioner’s involvement in the alleged crime is nowhere informed by any one of the witnesses concerned, more particularly, in connecting with the inducement to commit suicide. Even the suicide note of the deceased does not disclose anything against the petitioner. The deceased has not even whispered about the involvement of the petitioner herein. In the absence of any material to connect the petitioner with the alleged crime, this Court is of the view that the present complaint against the petitioner is liable to be quashed.”

23. Similarly, this Court *vide* order dated 13.11.2007 in Criminal Petition No.2957 of 2013 quashed the proceedings against accused No.4 with the following observation:

“The counsel for the petitioner takes this Court to the contents of the complaint given by the mother of the deceased-Smt Suhasini, wherein the name of the petitioner and others is not mentioned. The complaint only

show that when they broke open the door, they found the deceased hanging and the suicide note of the deceased is also collected wherein absolutely no allegation is made against this petitioner. The name of this petitioner does not figure in the suicide note. It is only on the basis of 161 Cr.P.C. statement of the witnesses, charge sheet have been filed against the petitioner. The statement of the mother of the deceased shows that this petitioner along with other accused blamed the deceased that she is responsible for the death of her husband and that she had an evil eye on the vast property of her husband but all the said allegations are improvements. When there is no basis for the offence under Section 306 IPC in the suicide note of the deceased itself, improvements made by other witnesses cannot be taken into consideration. Hence, on the face value of the complaint and the suicide note, no offence is made out against the petitioner and continuation of further proceedings will only result in abuse of process of law.”

24. In view of the aforesaid authoritative pronouncements of law and also in view of the above said discussion, this Court is of the considered view that there is no allegation of *mens rea* and also there are no specific allegations against the petitioners herein. The names of petitioners herein and the role played by them in abetting the deceased to commit suicide are not specifically mentioned in the suicide note. The only allegation in the suicide note is that the petitioners herein are indirectly responsible for her death. Except that one sentence, there is no other allegation against the petitioners herein. Therefore, in view of the aforesaid facts and also the fact that earlier, this Court has quashed the proceedings against accused Nos.3 and 4 in the very same case, this Court is inclined to quash the proceedings against the petitioners herein in S.C.No.330 of 2018 pending on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad.

25. Accordingly, this Criminal Petition is allowed and the proceedings against the petitioners herein in S.C.No.330 of 2018 pending on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad, are hereby quashed.

26. Miscellaneous Petitions, if any pending, shall stand closed.

K. LAKSHMAN, J

19th April, 2021

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