

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO.8843 OF 2021

O R D E R:

This Criminal Petition is filed under Sections 437 and 439 Cr.P.C. seeking bail to petitioner – Accused No.3 in Crime No. 2089 of 2021 of Rajendranagar Police Station, registered for the offence punishable under Section 306 read with Section 34 IPC.

2. The case of the prosecution is that on 13.10.2021 at 22.00 hours, a complaint was received from Smt. Obishetty Parvathi, wherein it is alleged that her son viz. Obishetty Chandra Shekar Rao (hereinafter be referred to as 'the deceased') and her daughter-in-law were staying in the house of Sri G.Prasad, who is none other than brother of her daughter-in-law. It is alleged that deceased and his wife got financial issues and in that connection, the said Prasad abused the deceased in filthy language and tried to attack him. While so, on 13.10.2021, at about 16.00 hours, complainant's daughter-in-law called and informed that deceased was not opening the door. Immediately, complainant and her daughter rushed to the house of deceased and came to know that he committed suicide by hanging. Thereafter, complainant verified the phone of her son and found one selfie video in which he stated that due to harassment of his wife and brother-in-law, he was committing suicide.

3. Learned counsel for petitioner Sri B. Madhusudhan Rao submits that mother of deceased gave a complaint stating that there were disputes between her deceased son and daughter-in-law and in that regard, brother-in-law of deceased used to interfere

and deceased was harassed by both his wife and brother-in-law and unable to bear the same, he committed suicide. It is stated that, in the entire complaint, the name of petitioner, who was arrayed as Accused No.3, was not mentioned. Learned counsel submits that petitioner has nothing to do with any of the family affairs of deceased. He submits that even if all the allegations are taken on its face value, they do not attract the offence under Section 306 IPC. He further submits that there is no abetment / instigation on the part of petitioner. It is stated that petitioner was arrested and remanded to judicial custody on 13.11.2021 and since then, he has been languishing in jail, hence, his case may be considered for grant of bail.

4. Learned Assistant Public Prosecutor, on the other hand, submits that as per selfie video, deceased also named petitioner –Accused No.3 as responsible for his death. He submits that so far six witnesses were examined and investigation is still in progress, hence, at this stage, petitioner is not entitled for bail.

5. Having heard learned counsel on either side, it is appropriate to have a look at Section 306 I.P.C. which reads thus:

“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.”

6. Abetment involves mental process of instigating the person or intentionally aiding the person for doing of a thing. Without a positive act on the part of the accused in aiding or instigating or abetting the deceased to commit suicide, the said

person cannot be compelled to face a trial. **(Criminal Application (Apl) No.547 of 2017 the High Court of Judicature at Bombay, Nagpur Bench, Nagpur).**

7. Before holding an accused guilty of an offence under Section 306 of IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative, but to commit suicide. It is also to be borne in mind that in cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 of IPC is not sustainable” **(M.Mohan v. State of Tamilnadu¹).**

8. Thus, the said provision makes it clear that to constitute an offence under Section 306 IPC, the prosecution has to establish: (i) that a person committed suicide, and (ii) that such suicide was abetted by the accused. In other words, an offence under Section 306 would stand only if there is an "abetment" for the commission of the crime.

9. As, *prima facie*, this Court is of the view that allegations against petitioner do not attract Section 306 IPC, it is appropriate to grant bail to him.

¹ 2011 (3) SCC 626

10. The Criminal Petition is therefore, allowed. Petitioner – Accused No.3 shall be released on bail in Crime No. 2089 of 2021 of Rajendranagar Police Station on his executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the XIV Additional Metropolitan Magistrate, Cyberabad at Rajendra Nagar, Ranga Reddy District.

06th December 2021

LALITHA KANNEGANTI, J

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