

**HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**CRIMINAL PETITION No. 8803 of 2021**

**ORDER:**

This Criminal Petition under Section 438 Cr.P.C. is filed by petitioners – Accused Nos. 4 and 5 seeking bail in the event of their arrest in connection with Crime No. 112 of 2021 on the file of Kadam Police Station, Nirmal District registered for the offences punishable under Section 294-B, 506-II, 306 read with Section 511 IPC.

2. The case of prosecution is that husband of complainant used to maintain JCB of Accused No.1, however, about three months back, Accused No.1 took maintenance of the said JCB. While so, on 28.10.2021, Accused No.1 along with Accused Nos. 2 and 3 came to husband of complainant and picked up a quarrel over money transactions and abused him in filthy language in public place and threatened that they would kill him at any cost and provoked to die. On 29.10.2021, complainant and her husband came to police station to give complaint. In the meanwhile, their son called them and told that Accused Nos. 4 and 5 came to their house and abused in filthy language and threatened them with dire consequences. On hearing the said conversation, vexed with life, husband of complainant attempted to commit suicide by consuming insecticide.

3. Learned counsel for petitioner Sri K. Venu Madhav submits that even as per the complaint, there are disputes between Accused No.1 and husband of complainant with regard to running JCB belonging to Accused No.1 and in view of those

disputes, petitioners are implicated in this crime. He submits that except stating that these two petitioners have abused complainant and her husband, there are no other allegations against them. It is submitted that petitioners are wife and mother of Accused 1 and 3. He further submits that in view of the law laid down by the Hon'ble Apex Court in ***M.Mohan vs. State of Tamilnadu***<sup>1</sup>, the offence under Section 306 IPC. is not attracted against petitioners. Learned counsel submits that this Court has already granted bail to Accused Nos. 1 and 3 in Criminal Petition No. 8804 of 2021, hence, the case of petitioners may be considered for grant of pre-arrest bail.

4. On the other hand, learned Assistant Public Prosecutor submits that because of the harassment meted by accused, husband of complainant committed suicide and as investigation is pending, at this stage, petitioners are not entitled for grant of pre-arrest 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 accused in aiding or instigating or abetting deceased to commit suicide, the said person cannot be compelled to face a trial **(Criminal Application (Apl)**

---

<sup>1</sup> 2011 (3) SCC 626

**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 victim had left him / her 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 accused, which led or compelled the person to commit suicide, conviction in terms of Section 306 of IPC is not sustainable” (**M.Mohan vs. State of Tamilnadu<sup>2</sup>**).

8. Thus, the said provision makes it clear that to constitute an offence under Section 306 IPC, 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. Taking into consideration the fact that there are no specific overt acts against these petitioners and as already Accused Nos. 1 and 3 were granted bail, and also in the light of the law laid down by the Hon'ble Apex Court in **M.Mohan's case**, this Court deems it appropriate to grant pre-arrest bail to petitioners.

---

<sup>2</sup> 2011 (3) SCC 626

10. Accordingly, this Criminal Petition is allowed. Petitioners – Accused Nos. 4 and 5 shall surrender before the Station House Officer, Kadam Police Station in connection with Crime No. 112 of 2021 within one week from today and on such surrender and executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) each with two sureties for a like sum each to the satisfaction of the said Station House Officer, they shall be released on bail. It is made clear that no further extension of time will be granted.

---

**LALITHA KANNEGANTI, J**

03<sup>rd</sup> December 2021

ksld