

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No. 8811 OF 2021

ORDER:

This Criminal Petition, under Section 438 Cr.P.C., is filed by the petitioner – Accused seeking bail in the event of her arrest in connection with Crime No. 178 of 2021 of Sangareddy (R) Police Station, Sangareddy District, registered for the offence punishable under Section 306 of the Indian Penal Code.

2. The case of the prosecution is that one Y. Narasimhulu gave report to the police on 24.06.2021 that his wife, Jyothi (deceased), poured kerosene on herself and lit herself on fire on 20.06.2021 in his house and while undergoing treatment in Osmania General Hospital, she passed away on 24.06.2021.

3. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor appearing for the State and perused the material on record.

4. Learned counsel Sri C. Sharan Reddy appearing for the petitioner submits that initially a complaint was lodged by the husband of the deceased stating that in view of her health issues she committed suicide. Later, section of law was altered to Section 306 IPC, basing on the dying declaration of the deceased, wherein it is stated that a small quarrel took place in the house where the petitioner herein abused the mother of the deceased and in view of the said altercation, the deceased has beat the petitioner and the petitioner in turn has beat the deceased and as the deceased could not take back, she decided to commit suicide, poured kerosene on

her body and set fire. Even as per the dying declaration, the offence under Section 306 IPC is not attracted as there is no instigation on behalf of the petitioner which made the deceased to commit suicide and hence, her case may be considered for grant of pre-arrest bail.

5. On the other hand, learned Assistant Public Prosecutor submits that investigation is pending.

6. Having heard learned counsel on either side, it is appropriate to have a look at Section 306 IPC, 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.”

7. 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).**

8. 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 vs. State of Tamilnadu¹**).

9. 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 IPC would stand only if there is an "abetment" for the commission of the crime.

10. Taking into consideration the dying declaration of the deceased wherein nothing has been stated against the petitioner attracting the offence under Section 306 IPC, this Court deems it appropriate to grant pre-arrest bail to the petitioner.

11. Accordingly, this Criminal Petition is allowed. Petitioner – Accused shall surrender before the Station House Officer, Sangareddy (R) Police Station, Sangareddy, in connection with Crime No. 178 of 2021 within one week from today and on such surrender and executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer, she shall

¹ 2011 (3) SCC 626

be released on bail. It is made clear that no further extension of time will be granted.

Miscellaneous applications, if any, pending shall stand closed.

LALITHA KANNEGANTI, J

3rd December 2021
RRB