

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NOs.384 and 549 of 2022

COMMON ORDER:-

These petitions are filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking pre-arrest bail to the petitioners/A.1 and A.2 respectively in the event of their arrest in connection with Crime No.318 of 2021 of Ameenpur Police Station, Sangareddy District, registered for the offences punishable under Section 306 of the Indian Penal Code, 1860 (for short 'IPC').

2. The *de facto* complainant lodged a complaint stating that his father was lying in balcony and oozing foam from his mouth and one poison bottle-Chanika505 near to him. Noticing that his father committed suicide, he shifted him to Citizen Hospital, Nalagandal for treatment. While shifting in ambulance, he found suicide note in the pocket of his father, in which it is stated that 'he made two private chits at Veershetty in which one chit lifted and took amount and second chit is also lifted, but Veershetty did not gave that amount and due to not paying the chit amounts from three months, he threatened him with dire consequences and sent rowdies to house, due to pressure, he committed suicide and wrote the names of Veershetty, Rajireddy and Narsima Reddy, who are cause for his death. While undergoing treatment his father was died on 14.10.2021 at 5.54 P.M. at Gandhi Hospital, Secunderabad. Basing on the said complaint, the present crime has been registered.

3. Heard Mr.P.Sriharinath, learned counsel for the petitioners, and learned Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioners submits that even if all the allegations in the suicide note as well as the complaint taken on its face value, they do not attract Section 306 of IPC. He submits that A.1 was running chits and being subscriber, the deceased has to pay the amounts. Just because the petitioners demanded to pay the amount, it cannot be said that the petitioners are instigated or abetted the deceased to commit suicide. Hence, petitioners' case may be considered for grant of pre-arrest bail.

5. Learned Assistant Public Prosecutor submits that investigation is still pending and so far three witnesses were examined. He submits that in view of the pressure mounted by petitioners on the deceased, he committed suicide. As such, the petitioners are not entitled for pre-arrest bail.

6. 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.”

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

10. Taking into consideration the allegations levelled in the complaint, the relationship between the petitioners and the deceased and it being a financial transaction, and also the judgment of the Supreme Court in M. Mohan supra, wherein it was held that ingredients of Section 107 IPC have to

¹ 2011 (3) SCC 626

be proved to constitute offence under Section 306 IPC, this Court deems it fit to grant pre-arrest bail to the petitioners-A.1 and A.2.

11. Accordingly, the Criminal Petitions are allowed. Petitioners/A.1 and A.2 shall surrender before the Station House Officer, Ameenpur Police Station, Sangareddy District, in connection with Crime No.318 of 2021 within one week from today and on such surrender and executing personal bonds for a sum 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.

Miscellaneous applications pending, if any, shall stand closed.

LALITHA KANNEGANTI, J

Date :01.02.2022

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