

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO. 724 OF 2022

O R D E R:

This Criminal Petition is filed under Sections 437 and 439 Cr.P.C. seeking bail to petitioner – Accused in Crime No. 209 of 2021 of Mothey Police Station, registered for the offence punishable under Section 306 IPC.

2. The case of the prosecution is that on 03.12.2021, police received a report from the de facto complainant stating that on 30.11.2021 his father by name Daramalla Uppaiah (deceased) went to the outskirts of his village for grazing cattle, where the petitioner was drying her paddy on R & B Road and at around 01.00 P.M., one of the cattle of the deceased ate her paddy, due to which, she the diseased. It is alleged that at about 02.00 PM., deceased went to his house and consumed poison and died in the hospital while undergoing treatment.

3. Learned counsel for the petitioner Sri J.P. Srikanth submits that the petitioner is alleged to have committed the offence under Section 306 IPC. It is stated that even as per the allegations in the report, there is no instigation or abetment from the petitioner which made the deceased to commit suicide. He submits that as per the report, the cattle belonging to the de facto complainant and the deceased. They ate paddy which was kept for drying in the fields of the petitioner and in this regard, an altercation took place and she beat the deceased. Unable to bear the insult, the deceased committed suicide. Learned counsel submits that even if all the allegations are taken on its face value,

they do not attract the offence under Section 306 IPC. He submits that the petitioner was arrested and remanded to judicial custody on 17.12.2021 and since then, she has been in jail. Learned counsel further submits that petitioner being a woman of 53 years, her case may be considered for grant of bail.

4. Learned Assistant Public Prosecutor, on the other hand, submits that the allegations in the complaint clearly attract the offence under Section 306 IPC. and an innocent person has lost his life. He submits that so far, nine witnesses were examined and investigation is still pending, hence, at this stage, the 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 Tamilnadu**¹).

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. Taking into consideration the allegations in the complaint where *prima facie*, it appears that ingredients of 306 are not attracted, this Court deems it appropriate to grant bail to the petitioner.

10. The Criminal Petition is therefore, allowed. Petitioner – Accused shall be released on bail in Crime No. 209 of 2021 of Mothey Police Station on her executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two

¹ 2011 (3) SCC 626

sureties for a like sum each to the satisfaction of the Additional
Judicial First Class Magistrate at Suryapet.

03rd February 2022

LALITHA KANNEGANTI, J

ksld