

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.2177 of 2022

ORDER:

The Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.1 seeking to grant anticipatory bail in the event of his arrest in connection with Crime No.14 of 2022 on the file of Markook Police Station, Siddipet District, registered for the offences under Sections 306, 504 read with Section 34 of IPC.

2. Heard learned counsel appearing for the petitioner/accused No.1 and learned Assistant Public Prosecutor appearing for the respondent-State. Perused the record.

3. Brief facts of the case are that the Government has taken 400 yards of the land from the *de facto* complainant and constructed double bed rooms in the village. However, one double bed room house was given by the authorities on insisting. Adjoining the said house, 100 square yards of open land was present, which belong to the *de facto* complainant, in which he planned to construct one room for the purpose of

Kirana shop. On 12.02.2022 one Isthari Balavva obstructed the *de facto* complainant's wife and argued that 100 square yards of open land belongs to her. The petitioner/accused No.2 and A2 went in support of the said Isthari Balavva and when the deceased wife of the *de facto* complainant intervened, the petitioner/accused No.1 and A2 allegedly abused her in filthy language and asked her to consume pesticide. On the same day i.e., on 12.02.2022 at 11.30 A.M. the *de facto* complainant's wife consumed pesticide resulting in her death at 12.50 P.M. on the same day.

4. Learned counsel for the petitioner/accused No.1 submits that merely abusing or asking a person to go and consume pesticide would not amount to abetment as contemplated under Section 107 of IPC. Further, the pesticide was consumed in the presence of the husband of the deceased, who is the *de facto* complainant.

5. In the judgment reported in **Pawan Kumar v. State of H.P.**¹, it is held as under:

¹ 2017 (2) ALD (Crl.) 231 (SC)

“32. The word ‘abetment’ has not been explained in Section 306 IPC. In this context, the definition of abetment as provided under Section 107 IPC is pertinent. Section 306 IPC seeks to punish those who abet the commission of suicide of other. Whether the person has abetted the commission of suicide of another or not is to be gathered from facts and circumstances of each case and to be found out by continuous conduct of the accused, involving his mental element. Such a requirement can be perceived from the reading of Section 107 IPC. Section 107 reads as under:

“Section 107. Abetment of a thing.-A person abets the doing of a thing, who-

First.-Instigates any person to do that thing; or
Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or
Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.-A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, willfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.-Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

“Abetment”, thus, means certain amount of active suggestion or support to do the act.

40. At this juncture, we think it appropriate to reproduce two paragraphs from *Chitresh Kumar Chopra’s* case (supra). They are”

“16. Speaking for the three-Judge Bench in *Ramesh Kumar’s* case (supra), *R.C. Lahoti*, J. (as His Lordship then was) said that instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of “instigation”, though it is not necessary that actual words must be used to that effect or what constitutes “instigation” must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an “instigation” may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

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19. As observed in *Ramesh Kumar’s* case (supra), where the accused by his acts or by a continued course of

conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an “instigation” may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

- (i) the accused kept on irritating or annoying the deceased by words, deeds or willful omission or conduct which may even be a willful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or willful omission or conduct to make the deceased move forward more quickly in a forward direction; and
- (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of *mens rea* is the necessary concomitant of instigation.

This Court again observed:

“20. ... The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each even, thus accounting for individual vulnerability to suicide. Each individual’s suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual’s vulnerability to end his own life, *which may either be an attempt for self-protection or an escapism from intolerable self.*”

6. Keeping in view the said legal position, the act of the petitioner/accused No.1 cannot be termed as abetting suicide.

7. In the said circumstances, the petitioner/accused No.1 is granted relief of anticipatory bail.

8. Accordingly, the Criminal Petition is allowed and the petitioner/accused No.1 is granted anticipatory bail subject to the following terms and conditions:

- (i) The petitioner/accused No.1 is directed to surrender before the Station House Officer, Markook Police Station, Siddipet District, within a period of 15 days from today, and on such surrender, the said Station House Officer shall release the petitioner/accused No.1 on bail on his executing a personal bond to the tune of Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum each to his satisfaction.
- (ii) On such release, the petitioner/accused No.1 shall appear before the Investigating Officer on every alternate day for a period of one (01)

month and thereafter every Sunday between 10.00 am and 5.00 pm till the completion of investigation and filing of final report.

- (iii) The petitioner/accused shall comply with the conditions as laid down under Section 438 (2) of Cr.P.C.

9. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

K.SURENDER, J

Date: 28.03.2022
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