

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.2651 of 2022****ORDER:**

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking pre-arrest bail to the petitioners/Accused Nos.1 to 6 in the event of their arrest in connection with Crime No.315 of 2021 on the file of Station House Officer, Mahabubabad Town Police Station, Mahabubabad District registered for the offence punishable under Sections 306 and 506 read with Section 34 of Indian Penal Code, 1860 (I.P.C.)

2. Heard the learned counsel appearing for the petitioners/Accused Nos.1 to 6 and learned Assistant Public Prosecutor appearing for the respondent-State. Perused the record.

3. Petitioners are arrayed as Accused Nos.1 to 6 in the aforementioned Crime. The allegations leveled against the petitioners are that there are civil cases pending regarding Ac.01-02 guntas of land. The deceased namely Bhukya Lachiram filed O.S.No.32 of 2013 before the Junior Civil Judge at Mahabubabad and the petitioners herein filed O.S.No.71 of 2016 before the Senior Civil Judge at Mahabubabad in respect of the same property.

4. The allegation against the petitioners is that they threatened the deceased not to appear in the court for giving evidence for which reason the deceased consumed insecticides and died on 03.12.2021.

5. As seen from the record, the civil disputes are pending since ten (10) years between the deceased, his family members and the petitioners. The allegation against the petitioners threatening the deceased to refrain from attending the court in the civil suit will not amount to forcing or abetting the deceased to commit suicide.

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

“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:

¹ 2017 (2) ALD (Crl.) 231 (SC)

"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.*”

7. In the said circumstances of pending civil disputes since 10 years, the incident of threatening the deceased to refrain from attending the court may not amount to abetting the deceased to commit suicide, for which reason the petitioners are entitled for anticipatory bail.

8. Accordingly, the Criminal Petition is allowed and the petitioners/Accused Nos.1 to 6 are granted anticipatory bail subject to the following conditions:

- (i) The petitioners/Accused Nos.1 to 6 are directed to surrender before the Station House Officer, Mahabubabad Town Police Station, Mahabubabad District, within a period of 15 days from today, and on such surrender, the said Station House Officer shall release the petitioners/Accused Nos.1 to 6 on bail on their executing a personal bond to the tune of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties for a like sum each to his satisfaction.
- (ii) On such release, the petitioners/Accused Nos.1 to 6 shall appear before the investigating authorities on every 1st and 3rd Sunday between 10.00 AM and 5.00 PM and as and when required for a period of three (03) months or till filing of charge sheet, whichever is earlier.
- (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: 30.03.2022
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