

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO.10222 OF 2021

ORDER:-

This petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking pre-arrest bail to the petitioner/accused in the event of his arrest in connection with Crime No.306 of 2021 of Suryapet II Town Police Station, Suryapet District, registered for the offence punishable under Section 306 of the Indian Penal Code, 1860 (for short 'IPC').

2. A report was lodged by the *de facto* complainant stating that her husband is working as private teacher and running crypto currency mining business with his friends Anand Kishore and Naresh and invested huge amount in business. Her husband lent some lakhs of rupees from the petitioner, who is the Sarpanch, and invested in crypto currency and sustained loss. On 23.10.2021, the petitioner has called her husband and his friends to his village and returned home without car and when she questioned her husband, he stated that the petitioner wrongfully confined in his house and took his car and forcibly took his signatures on some agreements. On 22.11.2021 her husband left home around 7.30 a.m. and stated that he went to Hyderabad on some work. On 24.11.2021 morning she came to know that her husband died in Sai Brundhavan Hotel room and in that room she found Preman Strong insecticide medicine and her husband left suicide notice that

he died due to harassment of Sarpanch only. Basing on the complaint, police registered the present case.

3. Heard Mr.J.P.Srikanth, learned counsel for the petitioner, and learned Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submits that it is purely a financial transaction between the parties. He submits that Section 306 IPC has no application to the facts of the case and absolutely there is no abetment or instigation on the part of the petitioner. He further submits that the petitioner has not aided or abetted the deceased to commit suicide. Hence, the petitioner's case may be considered for grant of pre-arrest bail.

5. On the other hand, learned Assistant Public Prosecutor submits so far seven witnesses were examined. He submits that there are allegations against the petitioner that he has harassed the deceased and not able to bear such harassment he committed suicide. As the investigation is pending, the petitioner is 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 fact that it is purely a financial transaction between the parties, *prima facie* it appears that the ingredients of

¹ 2011 (3) SCC 626

Section 306 IPC is not attracted and in view of the judgment of the Supreme Court in M. Mohan supra, wherein it was held that ingredients of Section 107 IPC have to be proved to constitute offence under Section 306 IPC, this Court deems it appropriate to grant bail to the petitioner/accused.

11. Accordingly, this Criminal Petition is allowed. Petitioner/accused shall surrender before the Station House Officer, Suryapet II Town Police Station, Suryapet District, in connection with Crime No.306 of 2021 within one week from today and on such surrender and executing a personal bond for a sum Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer, he shall be released on bail. It is made clear that no further extension of time will be granted.

Consequently, miscellaneous applications pending, if any, shall stand closed.

LALITHA KANNEGANTI, J

Date :06.01.2022

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