

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1926 of 2023

ORDER:

Heard Sri T.Niranjan Reddy, learned senior counsel, who argued on behalf of Sri K.Giridhar Raju, learned counsel on record for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking pre-arrest bail, this Criminal Petition is filed under Section 438 Cr.P.C on behalf of the petitioner, who is arrayed as accused No.1 in Crime No.34 of 2023 of Jagtial Rural Police Station, Jagtial District.

3. The facts of the case if narrated in a narrower compass, as could be perceived through the contents of the complaint, are that one Gaddam Jalapathi Reddy (hereinafter referred to as "the deceased" for brevity) was facing serious economic problems. He was having three daughters. While so, on 03.2.2023, he took two of his daughters and informed his wife that he would attend a marriage and return home. But, they did not return home. On the next day i.e., on 04.2.2023, the neighbours informed the wife of the deceased that the dead body of the deceased is found near the

agricultural lands that are located adjacent to Yellamma temple, Narsingapur. On that, the wife of the deceased and the relatives rushed there and found the dead body of the deceased. They searched for the children and found their dead bodies in a well. The petitioner, who is an Advocate by profession, was harassing the deceased without handing over the compensation which he got in respect of the land that was acquired by the Government. The deceased therefore committed suicide, being aggrieved by the inaction of the petitioner and his harassment.

4. Projecting that the petitioner did not commit any offences whatsoever, learned senior counsel appearing for the petitioner contends that the petitioner neither appeared in any of the proceedings representing the petitioner nor is responsible for the delay in award of compensation. Learned senior counsel states that on an application filed by the deceased, the Chairman, Mandal Legal Services Committee, Jagtial, appointed one K.Gangarajam, Advocate, as legal aid counsel to defend the deceased, which makes it clear that the petitioner has nothing to do with the grievance of the deceased. Learned senior counsel also states that the land in

question was acquired by the Government in the year 1997 and the O.P. filed was allowed on 30.11.2005. Learned senior counsel submits that the appeal was disposed of on 05.12.2014 and the Government deposited the compensation on 29.11.2021. Learned senior counsel further submits that no Execution Petition is filed till now by any of the claimants, which makes it abundantly clear that the petitioner is not responsible for the delay in award of compensation.

5. Learned senior counsel further states that in any event, Section 306 IPC does not attract to the case facts. Learned senior counsel also states that to make the case fall within the ambit of Section 306 IPC, there should be abetment.

6. Section 306 IPC reads as follows:-

“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. Therefore, by the above provision, it is clear that when a person abets another to commit suicide, he would be

liable for punishment of either description. Hence, for the case to fall within the ambit of Section 306 IPC, the ingredients falling within the ambit of Section 107 IPC, which defines the term 'abetment', have to be satisfied.

8. In the case on hand, referring to Section 107 IPC, learned senior counsel states that there is neither instigation nor intentional aid on part of the petitioner thereby abetting the deceased to commit suicide and therefore, the present case does not fall within the ambit of Section 306 IPC. In this regard, learned senior counsel relied upon the decisions of the Hon'ble Apex Court in the case between **Madan Mohan Singh Vs. State of Gujarat and another**¹ and also in the case between **Ude Singh and others Vs. State of Haryana**².

9. Learned senior counsel also forwarded a copy of the Vakalat to indicate that the petitioner did not appear on behalf of the deceased even in the O.P. in question.

10. The submission of the learned Additional Public Prosecutor, on the other hand, is that the petitioner made a

¹ (2010) 8 SCC 628

² (2019) 17 SCC 301

suicide note revealing the reasons for his death, wherein and whereby he stated that the petitioner did not conduct the case and equally, did not permit other advocates to conduct the case. The contention of the learned senior counsel for the petitioner in this regard is that even if the contents of the suicide note of the deceased are taken to be true, it cannot be termed to be instigation on part of the petitioner thereby driving the deceased to commit suicide.

11. Having considered all the above aspects and as the alleged suicide note of the deceased was already seized by Police and as twenty seven (27) material witnesses were examined till now, as submitted by the learned Additional Public Prosecutor, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

12. Resultantly, this Criminal Petition is allowed with the following conditions:-

- (i) The petitioner/accused No.1 is directed to surrender before the Court concerned within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.75,000/- (Rupees Seventy Five

thousand only) with two sureties for the like sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.

(ii) In case, the petitioner/accused No.1 holds a passport, he is directed to surrender the same.

(iii) The petitioner/accused No.1 should not involve in any unlawful activity.

(iv) The petitioner/accused No.1 should afford all assistance for proper investigation of the case.

(v) The petitioner/accused No.1 should not cause the evidence of the offence disappear.

(vi) The petitioner/accused No.1 should not tamper with the evidence in any manner.

(vii) The petitioner/accused No.1 should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of

the case, from disclosing such facts to the Court or to the Police Officer.

(viii) The petitioner/accused No.1 should ensure his presence whenever required by the Court or Police.

(ix) The petitioner/accused No.1 shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused No.1 shall report before the Station House Officer, Jagtial Rural Police Station, Jagtial District, on every Sunday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused No.1 shall file an affidavit before the court concerned disclosing the following particulars:-

- (1) Contact number
- (2) Mail address
- (3) Residential particulars.

In case, there is any change in the aforementioned details, the petitioner shall intimate the court concerned by giving a fresh affidavit

duly mentioning the change. He shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

02.3.2023
DR