

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.3065 of 2023

ORDER:

This criminal petition is filed by the petitioner – A2 under Sections 437 and 439 of Cr.P.C. to enlarge the petitioner on regular bail in Crime No.102 of 2023 on the file of Adibatla Police Station, Rachakonda.

2. The case of the prosecution in brief was that on 28.02.2023 at 6.30 PM, the *de facto* complainant lodged a report before the Police stating that in the year 2017 one Vanam Rajesh introduced her husband to Mr. T.S.S. Varaprasad @ Shiva. Later, Mr. Varaprasad moved closely and became a good friend of her husband and made them believe that he was doing Real Estate and Mining business and induced them to invest money in his business. Having lured by his false promises, her husband invested Rs.20,00,000/- with Mr. Varaprasad after entering into MOU. After a few days, Mr. Varaprasad informed them that the said amount was not sufficient and forced her husband to apply for a loan, as he was an employee of high profile job and promised that he would look after the process of loan and also would pay its

EMI's every month and insisted to apply for a loan. On his inducement, her husband had taken Rs.81.00 lakhs of personal loans from different banks and handed over it to Mr.T.S.S. Varaprasad, who paid EMI's for a period of one year. In the year 2018, Mr. Varaprasad and his friends Nekkanti Ravi Kumar (petitioner herein) and Sundar approached her husband and forced him to register their house in their favour and threatened that they would not pay the EMIs of her husband's personal loan every month if he would not register the house. Due to their threatening, in September, 2018 she executed sale deed of their house in favour of N. Ravi Kumar. After one year, said Ravi Kumar sent a lawyer's notice to them mentioning that they have sold their house and asked them to vacate it. Since then, she and her husband questioned them about the fraud committed by them and requested them several times to return their house and money. On 24.02.2023, she along with her husband Ramesh, in-laws Vijaya and Anjaneyulu, uncle went to Ravi Kumar's house and requested to cancel the registration. Then Ravi Kumar, Sundar, Rajesh and Shivaprasad refused to cancel the registration and threatened them by

humiliating and abusing them in the name of their caste and refused to give their house back and caused mental distress to her husband and abetted him to die. After that the said persons came to their house and told them that they had sold the house to one Mr. Afzal and demanded them to vacate the house, abused her husband in the name of the caste and threatened that they would kill them if they would not vacate the house, due to which her husband was highly depressed and vexed on his life committed suicide on 28.02.2023 at 9.00 AM by hanging to a ceiling fan. Her husband was shifted to Prathyusha hospital for treatment, where duty doctors declared that he was brought dead. She requested to take action against Nekkanti Ravi Kumar, Sundar, T.S.S. Varaprasad, Vanam Rajesh and Mr. Afzal, who abetted her husband to commit suicide and attempted to take their house.

3. Basing on the said report, the Inspector of Police of PS Adibatla, Rachakonda, registered a case vide Crime No.102 of 2023 for the offences under Sections 406, 420, 306, 506 read with 34 IPC and 3 (1) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short 'SC &

ST Act'). During the course of investigation, A1 to A3 were arrested on 04.03.2023 and produced them before the court.

4. Heard learned counsel for the petitioner and the learned Additional Public Prosecutor.

5. Learned counsel for the petitioner submitted that the petitioner was a bonafide purchaser of the house belonging to the *de facto* complainant, he paid the entire consideration by availing loan from LIC and from his own sources and paid through RTGS. The petitioner had nothing to do with the alleged transactions between the deceased with A1. The petitioner had no prior acquaintance or friendship with the deceased. The petitioner was a Software employee. He was the only earning member in their family. He was a permanent resident of Hyderabad and law abiding citizen. He further submitted that all the other accused persons i.e. A1, A3 and A4 were also released on bail and prayed to enlarge the petitioner on bail.

6. A notice was served on the *de facto* complainant as required under Section 15-A of the SC & ST Act, but there was no representation on her behalf.

7. Learned Additional Public Prosecutor opposed grant of bail to the petitioner.

8. Perused the record. The complaint as well as the remand report of A1 to A3 would disclose that all the financial transactions of the deceased are with A1. A copy of the registered sale deed executed by the *de facto* complainant in favour of the petitioner dated 25.09.2018 would disclose that the petitioner purchased the house property of the complainant for a sale consideration of Rs.75.00 lakhs. The details of the amounts paid by him were clearly mentioned therein. Most of the amounts were paid towards housing loans taken by the vendor. Apart from that, he also paid some amounts directly to the vendor's bank account through cheques, the details of which were mentioned therein. The allegations against the petitioner in the remand report would disclose that the petitioner sent a lawyer notice to the complainant asking them to vacate the house and the complainant along with her husband, in-laws and uncle went to the house of the petitioner and requested to cancel the registration wherein he abused and threatened them. Thus, the abuses in the name of the caste were

alleged to be hurled in the house of the petitioner herein, but not in public view attracting the offence under Section 3 (1) (s) of SC & ST Act. The *de facto* complainant also alleged that the petitioner and others abetted her husband to die. But, the said abetment was alleged to be on 24.02.2023 whereas the deceased committed suicide on 28.02.2023 at 9.00 AM. Thus, there was a reasonable time gap between the alleged abetment and the commission of suicide by the deceased. There was also a long time gap of more than one year between the notice given by the petitioner to the *de facto* complainant to vacate the property and the *de facto* complainant and the deceased visiting the house of the petitioner.

9. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Apex Court in **Arnab Manoranjan Goswami v. The State of Maharashtra & Ors.**¹, wherein the principles for granting bail are stated as:

“57. While considering an application for the grant of bail under Article 226 in a suitable case, the High Court must consider the settled factors which emerge from the precedents of this Court.

These factors can be summarized as follows:

¹ 2021 2 ACR 1170

- (i) The nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction;
- (ii) Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses;
- (iii) The possibility of securing the presence of the accused at the trial or the likelihood of the accused fleeing from justice;
- (iv) The antecedents of and circumstances which are peculiar to the accused;
- (v) Whether prima facie the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR; and
- (vi) The significant interests of the public or the State and other similar considerations.”

10. He also relied upon the judgment of this Court in **Gotte Nageshwar Rao and Anr. v. State of A.P., rep. by its Public Prosecutor, High Court of A.P. at Hyderabad and anr.²**, wherein the principles to prove the offence under Section 306 IPC are stated as:

“8) When the above jurisprudential jurimetrics is summed up, in order to indict a person to have abetted the suicide of another person, the following cardinal principles should be considered.

² 2019 4 Crimes (HC) 517

(i) There must be mens rea or the intention of the accused to aid or to instigate or to abet the deceased to commit suicide.

(ii) Instigation or goading or urge forward or provoke or incitement or encouragement on the part of accused must be such that there should be a continued course of conduct of accused creating such circumstances that the deceased was left with no other option except to commit suicide.

(iii) A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be regarded to be instigation.

(iv) There shall be direct nexus between the words uttered, acts or omissions of the accused and the resultant suicide, for, sometimes the victim committing suicide might be hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide. The Court shall keep in mind, it is not what the deceased felt to commit suicide but what the accused intended by his act, which is more important in a given context.”

11. On a perusal of the above judgments, this Court is of the opinion that the ingredients to constitute the offences under Section 306 of IPC or Section 3(1)(s) of SC & ST Act are *prima facie* not applicable to the facts of the case. The other ingredients of Sections 406 and 420 IPC are not applicable to the present

petitioner. Therefore, it is considered a fit case to grant bail to the petitioner.

12. In the result, the Criminal Petition is allowed and the petitioner- A2 is directed to be released on bail on executing a personal bond to a tune of Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the XV Metropolitan Magistrate, Ibrahimpatnam.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

April 10, 2023
KTL