

2023 LiveLaw (SC) 641

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

M.M. SUNDRESH; J., J.B. PARDIWALA; J.

CRIMINAL APPEAL NO.901 OF 2017; 9 August, 2023

YADDANAPUDI MADHUSUDHANA RAO *versus* THE STATE OF ANDHRA PRADESH & ORS.

Indian Penal Code, 1860; Section 306, 107 - To attract the ingredients of Section 306 IPC, there must be evidence to substantiate the existence of suicide. It should be followed by abetment, as required under Section 107 of the IPC. (Para 9)

WITH CRIMINAL APPEAL NO. 902 OF 2017 WITH CRIMINAL APPEAL NO.903 OF 2017

For Appellant(s) Mr. C. Mohan Rao, Sr. Adv. Mr. R. Santhnan Krishnan, Adv. Mr. Lokesh Sharma, Adv. Mr. Aditya Kr. Archiya, Adv. Mr. Krishna Kumar Singh, AOR Mr. B Adinarayana Rao, Sr. Adv. Mr. Byrapaneni Suyodhan, Adv. Mr. Kumar Shashank, Adv. Mr. Bharat J Joshi, Adv. Ms. Tatini Basu, AOR

For Respondent(s) Mr. Amit K. Nain, AOR Mr. B Adinarayana Rao, Sr. Adv. Mr. Byrapaneni Suyodhan, Adv. Mr. Kumar Shashank, Adv. Mr. Bharat J Joshi, Adv. Ms. Tatini Basu, AOR Mr. Mahfooz Ahsan Nazki, AOR Mr. Kv Girish Chowdary, Adv. Ms. Rajeswari Mukherjee, Adv. Ms. Niti Richhariya, Adv. Mr. Meeran Maqbool, Adv.

ORDER

1. Criminal Appeal No.901 of 2017 is filed by the appellant, laying a challenge to the order passed by the High Court declining to exercise jurisdiction under Section 482 of Code of Criminal Procedure (for short, "Cr.P.C.") in quashing the proceedings pending against him. Criminal Appeal No.902 of 2017 has been filed by the complainant against the very same impugned judgment and order, quashing the proceedings under Criminal Case No.2870 of 2010 *qua* accused nos. 2 to 8. Criminal Appeal No.903 of 2017 has been filed against the accused by the same complainant against the order dated 25.09.2013 dismissing Crl. M.P. No.2670 of 2013, filed by him in 2013 for recalling the judgment dated 18.09.2012.
2. The accused have been charge-sheeted under Sections 417, 498(A), 306, 406 and 201 of the Indian Penal Code (in short "IPC").
3. The appellant is none other than the husband of the deceased, Madhavi. Accused no. 2 and accused no.3 are the father and mother of the appellant respectively. Appellant no.4 is the uncle of the appellant and appellant no.5 is the wife of appellant no.4. Accused nos.6 and 7 are friends who solemnized the marriage between accused no.1 and Madhavi. Accused no.8 is brother of appellant.
4. The marriage between the appellant and Madhavi took place on 08.12.2002. After the marriage, both the appellant and the deceased Madhavi left for the United States of America. Both the appellant and the deceased came back to India from time to time. As the deceased Madhavi was suffering from depression, she used to take treatment occasionally from LW25, Dr. Phani Bhushan, being a specialist in the field of Psychiatry. One day before the incident, i.e. on 11.04.2009, both the accused and the deceased again consulted LW25. The deceased was found to be ill, having lost 20 kgs of weight. On the next day, the deceased died at the residence of the *de facto* complainant. The cremation took place on 13.04.2009.
5. Then, six days after the death of the deceased, the *de facto* complainant, who is the father of the deceased, and incidentally functioning as a Sub-Inspector of Police, gave a complaint as afore-stated against the appellant and the other accused.

6. The High Court in the impugned order declined to exercise its jurisdiction under Section 482 Cr.P.C. against the appellant, while quashing the proceedings against the other accused. Aggrieved thus, both the appellant and the *de facto* complainant are before us.

7. As stated by learned counsel for the appellant, the very factum of death by suicide has not been proved. The statement of LW25, the Psychiatrist who was consulted both by the appellant and the deceased, would show that the deceased was not keeping a good health. Further evidence was also shown to the effect that there is a marital discard, as the appellant was not in speaking terms with the deceased.

8. The *de facto* complainant being a police officer himself has not given a compliant promptly after the death. On the contrary, he himself performed the cremation the next day, and gave the complaint on 18.04.2009. Statement of LW13 has to be understood on the attending circumstances. The statement given by LW3 also has no value and substance. It is rather strange that the *de facto* complainant and his family were not aware of any of the facts alleged till such time, especially when the deceased and the accused were visiting them frequently, and the occurrence took place in the *de facto* complainant's house.

9. To attract the ingredients of Section 306 IPC, there must be evidence to substantiate the existence of suicide. It should be followed by abetment, as required under Section 107 of the IPC. In as much as we do not find any merit in evidence to support the case of the prosecution that there was a suicide, thereby the statement recorded from LW25 itself shows that the deceased was ailing and therefore, not keeping in good health.

10. Though the trial has begun at least as against the appellant, we are not inclined to dismiss this petition on that ground. Continuation of trial would certainly be prejudicial to the appellant, as we do not find any material evidence sufficient enough to attract the ingredients of Section 306 IPC. The proceedings against the appellant stand quashed. Insofar as the appeals by the *de facto* complainant against the accused are concerned, the same reasoning along with the reasoning of the High Court would be applicable.

11. In such view of the matter, Criminal Appeal No.901 of 2017 is allowed by setting aside the impugned judgment dated 18.09.2012 passed by the High Court. Consequently, Criminal Appeal No.902 of 2017 and Criminal Appeal No.903 of 2017 stand dismissed.