

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION NO. 5444 OF 2022

ORDER:-

This petition under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed seeking pre-arrest bail to the petitioners/A2 & A3 in the event of her arrest in connection with Crime No.286 of 2022 of Vedayapalem Police Station, Nellore City, SPSR Nellore District, registered for the offence punishable under Section 306 r/w. Section 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. The case of the prosecution, in brief, is that father of the deceased lodged a complaint alleging that the marriage of the deceased with Accused No.1 was performed in the month of November, 2020. The deceased worked as Software Engineer at Hyderabad and doing work from home for some time. After his wedlock, the deceased and Accused No.1 were blessed with a baby girl. The complaint further states that when the deceased went to the house of his in-laws and proposed to start marital life at Hyderabad, his in-laws and sister-in-law refused the said proposal. The complaint further discloses that on 29.06.2022, the *defacto* complainant received a call from his son/deceased that he is committing suicide. Basing on the said complaint, the present crime was registered, in which petitioners are shown as A2 and A3.

3. Heard Sri V. Surendra Reddy, learned counsel for the petitioners and Sri Soora Venkata Sainath, learned Special Assistant Public Prosecutor for the respondent-state.

4. Learned counsel for the petitioners submits that petitioners are innocent and they are implicated in the crime with mistaken impression. Hence, learned counsel for the petitioners sought for grant of anticipatory bail to the petitioners.

5. Learned Special Assistant Public Prosecutor opposed the bail petition on the ground that investigation is at nascent stage.

6. A perusal of the complaint indicates that deceased has been working as Software Engineer in Hyderabad and doing work from Home for some time. After the marriage of deceased with Accused No.1, they were blessed with a baby girl. Deceased intend to start his marital life at Hyderabad, for which Accused Nos.1 to 3 are refused.

7. In **Geo Varghese v. State of Rajasthan and Another**¹, the Hon'ble Apex Court held that mere allegation of harassment will not attract offence under Section 306 of IPC unless such actions compelled the victim to commit suicide. The relevant portion is incorporated hereunder:

“23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are

¹ 2021 SCC Online SC 873

allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

8. In the present case, going by the complaint, the deceased committed suicide due to pressure made by his in-laws and his wife. In view of the above law laid down by the Hon'ble Supreme Court, mere allegation of pressure or harassment will not suffice to attract ingredients of Section 306 of IPC.

9. To attract the offence under Section 306 of IPC, there should be instigation or abetment on the part of the accused. It is apt to have a look at Section 306 of IPC, 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.”

In the present case as stated supra going by the complaint there is no instigation or abetment made by the petitioner which lead the deceased to commit suicide and hence, ingredients of Section 306 are *prima facie* not made out.

10. The Hon'ble Apex Court in **M. Mohan v. State of Tamilnadu**² while dealing with ingredients of Section 306 of IPC held as under:

“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”.

Thus, it is clear that there should be instigation or abetment on the part of the petitioners which compelled the deceased to commit suicide. Going by the complaint due to the pressure put by in-laws and wife, deceased committed suicide and nothing is made out from the complaint with regard to abetment or instigation made by the petitioners.

11. In view of the law laid down by the Hon'ble Apex Court and as *prima facie* case is not made out against the petitioners since the complaint does not indicate about abetment or instigation made by them, this Court is inclined to grant bail to the petitioners.

13. Accordingly, this Criminal Petition is allowed Petitioners/A2 & A3 shall be enlarged on bail in the event of their arrest in

² (2011) 3 SCC 626

connection with Crime No. 286 of 2022 of Vedayapalem Police Station, Nellore City, SPSR Nellore District on each a furnishing self bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties for a likesum each to the satisfaction of the Station House Officer, Vedayapalem Police Station, Nellore City, SPSR Nellore District. Petitioner shall cooperate with investigation and shall not influence the witnesses or tamper with the evidence.

It is made clear that this order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law and the findings in this order be construed as expression of opinion only for the limited purpose of considering the regular bail in the above crime and shall not have any bearing in any other proceedings.

Date :05.08.2022
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Allowed

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