

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION NO. 4976 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 petitioner/A3 in the event of her arrest in connection with Crime No.281 of 2022 of Chintalapudi Police Station, Eluru, registered for the offence punishable under Section 306 of the Indian Penal Code, 1860 (for short 'IPC').

2. The case of the prosecution, in brief, is that wife of the deceased lodged complaint alleging that her husband i.e. the deceased worked as Clerk for nine years in Primary Agriculture Cooperative Society (hereinafter referred to as 'Society'), Pothunuru and that presently he is working as Secretary. It is further alleged that since there is delay in collection of loans, his higher officers have been pressurizing her husband for collection of loans. It is further alleged in the complaint that on 07.07.2022, the deceased went to office and when her husband did not receive her call, she telephoned to his colleague, Vidya Sagar and that one Suresh lifted the phone and asked the complainant to come to government hospital, Chintalapudi. When the complainant reached there she found her husband dead. It is alleged that due to the pressure made by the accused, the deceased committed suicide. Basing on the said complaint, the present crime is registered, in which petitioner is shown as A3.

3. Heard Sri O. Kailashnath Reddy, learned counsel for the petitioner and Sri Soora Venkata Sainath, learned Special Assistant Public Prosecutor for the respondent-state.

4. Learned counsel for the petitioner submits that petitioner is innocent and she is implicated in the crime with mistaken impression. He submits that a perusal of the complaint does not indicate with regard to abetment or instigation made by the petitioner. He further submits that petitioner herein is Chief Executive Officer and the deceased is Secretary of the Society and any instructions regarding recovery of loans and issuance of fresh loans will be given by the President of the society to the Secretary, as such petitioner directing the deceased does not arise. He also submits that in fact in view of the agricultural season, farmers are pressuring for loans. He further submits that on the alleged date of incident, petitioner and other officials of the society were on assignment tour to represent training programme organized by the society and since nothing is attributed against the petitioner, with regard to abetment or instigation made by the petitioner, petitioner may be granted pre-arrest bail.

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 Secretary in Primary Agriculture Cooperative Society and that initially he worked as Clerk and subsequently posted as Secretary to the Society and for the last three years he has been

working as Secretary. While disbursing loans or collecting loans the procedure contemplated under Co-operative Societies Act, will be followed by the concerned officer. Therefore, the averments of the complaint with regard to the pressure made by the petitioner who is CEO may not arise for the reason that in case of any defaults, the President and Secretary will follow the procedure contemplated under the Co-operative Societies Act.

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 Sections 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 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.”

¹ 2021 SCC Online SC 873

8. In the present case, going by the complaint, the deceased committed suicide due to pressure made by his higher officers. 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. In Criminal Application (Apl) No.547 of 2017 the High Court of Judicature at Bombay, Nagpur Bench, Nagpur held that an 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.

11. 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 petitioner which compelled the deceased to commit suicide. Going by the complaint due to the pressure put by higher officers, deceased committed suicide and nothing is made out from the complaint with regard to abetment or instigation made by the petitioner.

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

13. Accordingly, this Criminal Petition is allowed Petitioner/A3 shall be enlarged on bail in the event of her arrest in connection with Crime No. 281 of 2022 of Chintalapudi Police Station, Eluru

² (2011) 3 SCC 626

on 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, Chintalapudi Police Station, Eluru. 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.

JUSTICE SUBBA REDDY SATTI

Date :14.07.2022
IKN

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

Allowed

CRIMINAL PETITION No.4976 OF 2022

14.07.2022

IKN