

SONTI RAMA KRISHNA

v.

SONTI SHANTI SREE AND ANR.
(Criminal Appeal No. 1890 of 2008)

NOVEMBER 28, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.]**

Code of Criminal Procedure, 1973 – s. 482 – Proceeding for offence of u/s. 306 IPC – High Court quashing the proceedings on the finding that ingredients of s.306 IPC not applicable to the facts of the case – On appeal, held: Normally threshold interference not permissible u/s. 482 – However, in the facts of the case, proceeding right by quashed – Penal Code, 1860 – s.306

Appellant filed a complaint with police, alleging that his son (deceased) and respondent No. 1 were married. On the next day of the nuptial i.e. 3.6.2004 at the house of the accused, she openly insulted the deceased stating that he was impotent and she did not accept the marriage. The deceased had told his mother and sister that the accused told him that she was not interested in marrying an ugly person. On 5.6.2004, the deceased returned to his native place. On 6.6.2004, the deceased left his native place without informing anyone. On 9.6.2004, the complainant received a message from police station that the deceased had committed suicide. Complainant alleged that the accused was responsible for suicidal death of her husband.

Respondent-accused field a petition u/s 482 Cr.P.C. seeking quashing of the criminal proceedings. High Court quashed the proceedings finding that the ingredients of s.306 IPC have no application to the facts

A A of the case. Hence, the present appeal.

Dismissing the appeal, the Court

HELD: Though, normally threshold interference should not be made under Section 482. But, in the background of the instant case, no interference is called for with the order passed by the High Court. The appellant filed a complaint after about two and a half months of the alleged incident. Allegation was that the police did not register a complaint. Initially on the basis of information lodged, enquiry in terms of Section 174 Cr.P.C, was conducted and the police started the proceedings. At different points of time, different versions have been given. In the first stage during investigation under Section 174 Cr.P.C it was stated that the accused had come to the village with the deceased but subsequently, stand was that the accused did not accompany the deceased because the latter was bad and ugly looking. There was no suicide note. Admittedly, marriage was an arranged one. If that is so, it is not believable that the deceased and the accused had not met. The alleged grievance of the accused that the deceased was an ugly man could not have been noticed after marriage, for the first time on 3.6.2004. The date of marriage was 29.5.2004. It is fairly well settled that words uttered in a fit of anger or emotion without any intention cannot be termed as instigation. [Paras 10, 11 and 12] [748-G-H; 749-A-C; E-F]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1890 of 2008.

G From the final Judgment and Order dated 12.9.2006 of the High Court of Judicature, Andhra Pradesh at Hyderabad in Criminal Petition No. 3731 of 2005.

R. Nedumaran for the Appellant.

H Shiv Kumar Suri and D. Bharathi Reddy for the

Respondents.

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The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Andhra Pradesh High Court allowing the petition filed under Section 482 of the Code of Criminal Procedure, 1973 (in short the 'Code'). The respondent No. 1 filed a petition for quashing the prosecution against her in PRC No. 1/05 on the file of learned II Additional Judicial First Class Magistrate, Machilipatnam. The High Court by the impugned order allowed the application quashing the proceedings.

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3. A complaint was filed by the appellant who is father of Venkateswara Rao (hereinafter referred to as the 'deceased') who was a highly qualified person and was employed in Kendriya Vidhyalaya at Machilipatnam. The allegations in the complaint were that his marriage was performed with the accused-respondent No. 1 on 29.5.2004 at Tirupathi. It is alleged that while the accused was fair in complexion, the deceased was not good looking. It is stated that while the family of the accused had informed that a house site stood in the name of the accused and that she had 30 sovereigns of gold ornaments and that they would perform the marriage in a grand scale and pay Rs.25,000/- towards the bride's clothes, subsequently, they changed their mind and promised to pay the sum of Rs.25,000/- to the bride after nuptials. Nuptials were fixed at the house of the accused on 02.06.2004. On the next day morning the accused is alleged to have openly in the presence of the mother and sister of the deceased and other relatives, insulted the deceased stating that he was impotent, that her life was spoiled and that she did not accept the marriage. The accused is alleged to have heckled her husband that it was better to die rather to live as an impotent husband and spoil her life. According to the complainant, the deceased

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- A informed his mother and sister that the accused did not allow him to cohabit, stating that she was not interested in marrying an ugly person. Feeling ashamed and humiliated by the rude and unjust behaviour, and the attitude of the accused, the deceased is said to have suffered mental agony. He, however,
- B stayed for the next two days at Vijayawada and thereafter returned to his native place along with his mother and sister on 05.06.2004, while the accused did not come with him. On 06.06.2004, the deceased is said to have left his native village Turakapalem even without informing the complainant and
- C members of his family. On 09.06.2004, the complainant received a message from Innakudurupet Police Station that the deceased had committed suicide. According to the complainant, the accused was solely responsible for the suicidal death of her husband and that she had abetted in his committing suicide. It was alleged that since the deceased was
- D insulted by the accused, he felt ashamed and committed suicide and that the acts and omissions of the accused had driven the deceased to commit suicide. The intentional instigation and cruel conduct of the accused had prompted the deceased to commit suicide. On being informed, both the
- E accused and her mother are alleged to have come to Machilipatnam. The accused removed her Mangalasutram from her neck, had thrown only the black beads on the dead body keeping the gold suthrams with her and left the place stating that she had no connection with the family of the complainant
- F and the Almighty had fulfilled her desire. It was alleged that, thereafter, the accused did not visit the house of the complainant and also did she attend the funeral ceremony of her husband.
- G 4. Questioning the issuance of process in proceedings, respondent No. 1 filed a petition before the High Court. It was stated that even if allegations in the complaint are accepted as true, the abusive language alleged to have been used by the accused on 3.6.2004 could not have led to suicide as the
- H deceased had come back to his native village after staying

three days in the house of the accused and on 9.6.2004 the dead body was recovered from a lodging house where the accused had stayed under an assumed name and after giving a false address.

5. The stand of the present appellant was that the harsh and abusive language used by the accused was the cause of suicide and therefore the High Court ought not to have interfered in the matter. The High Court found that the ingredients of Section 306 IPC which relate to abetment of suicide have no application to the facts of the case.

6. In support of the appeal, learned counsel submitted that the High Court should not have gone into the merits of the case and it should not have interfered in the manner done.

7. Learned counsel for respondent No. 1 on the other hand submitted that there were suppressions at every stage by the appellant. The true purpose was to harass respondent No. 1 and her family members. On their own showing, huge demands for dowry were raised and the suicide, if any, was not because of any abusive language used by respondent No. 1. As is admitted by the prosecution, the deceased stayed for three days in the house of accused and thereafter came to his own village. For strange reasons instead of staying in his own house in Machilipatnam, he stayed at a lodging house under false name and fictitious address. If he was really hurt and had any grudge from the abusive language of the accused as contended in the complaint, he could have committed suicide immediately after the so called abuses were made. Even otherwise, he could have done so at his home, after reaching his native village. But he did not do that. He also did not commit suicide in his place of stay at Machilipatnam and committed suicide at a lodging house. All this goes to show that there was no abetment of suicide.

8. Section 306 deals with abetment of suicide and Section 107 deals with abetment of a thing. They read as

A follows:

"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.

107. Abetment of a thing- A person abets the doing of a thing, who:-

C First- Instigates any person to do that thing; or

Secondly- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

D Thirdly- Intentionally aids, by any act or illegal omission the doing of that thing.

E Explanation 1- A person who, by willful misrepresentation or by willful concealment of a material fact which he is bound to disclose voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

F Explanation 2:- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act."

9. Certain factual aspects need to be noted:

G The present appellant filed a complaint to the Superintendent of Police after about two and a half months of the alleged incident. Allegation was that the police did not register a complaint. Ultimately, the complaint was filed on 26.8.2004. Initially on the basis of information lodged, enquiry

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in terms of Section 174 of the Code, was conducted and the police started the proceedings. It is to be noted that at different points of time, different versions have been given. In the first stage during investigation under Section 174 of the Code it was stated that the accused had come to the village with the deceased. Interestingly, there was no suicide note. Admittedly, marriage was an arranged one. If that is so, it is not believable that the deceased and the accused had not met. The alleged grievance of the accused that the deceased was an ugly man could not have been noticed after marriage, for the first time on 3.6.2004. The date of marriage was 29.5.2004. It is fairly well settled that words uttered in a fit of anger or emotion without any intention cannot be termed as instigation.

11. Additionally, there was no suicide note in the present case. As noted earlier different versions of death were given. At the earlier stage, during investigation, under Section 174 of Code, the version was that the accused had accompanied the deceased to the native home, but subsequently stand was that the accused did not accompany the deceased because the latter was bad and ugly looking.

12. Though, normally threshold interference should not be made under Section 482, in the aforesaid background, this is not a case where any interference is called for with the order, by the High Court. The appeal is dismissed.

K.K.T.

Appeal dismissed.