



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3239]

FRIDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

CRIMINAL PETITION NO: 7670/2019

Between:

1. SMT. VALLURUPALLI SAILAJA, W/O. K. JAYA KIRITI AND D/O. VALLURUPALLI SATYANARAYANA HINDU, AGED ABOUT 30 YEARS, EMPLOYMENT, RESIDING AT H.NO. 7-71 NEAR PANTA KALVA PORANKI 521 137 PENAMALURU MANDAL KRISHNA DISTRICT
2. SMT. VALLURUPALLI JANAKI, W/O. VALLURUPALLI SATYANNARAYANA HINDU, AGED ABOUT 61 YEARS, RETIRED EMPLOYEE RESIDING AT H.NO. 7-71 NEAR PANTA KALVA PORANKI 521 137 PENAMALURU MANDAL KRISHNA DISTRICT

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR HIGH COURT OF ANDHRA PRADESH AMARAVATHI
2. USHODAYA ENTERPRISES PVT LTD, FOODS DIVISION REP. BY S. RAMESH SENIOR MANAGER F AND A EENADU COMPLEX SOMAJIGUDA HYDERABAD 500 082 TELANGANA STATE

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Courtpleased to call for records relating to C.C.No. 5391 of 2019 pending in the court of Ld. 3rd Addl. Chief Metropolitan Magistrate, Vijayawada, Krishna District and to quash the proceedings therein and to grant

IA NO: 1 OF 2019

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased pleased to grant stay of all further proceedings, including the appearance of the petitioners herein viz., Accused Nos. 11 and 12 in C.C.No. 5391 of 2019 on the file the Court of L. 3rd Addl. Chief Metropolitan Magistrate, Vijayawada, Krishna District, pending disposal of the main Criminal Petition and to pass

Counsel for the Petitioner/accused(S):

1.K GANI REDDY

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR (AP)

2.M R K CHAKRAVARTHY

HON'BLE SRI JUSTICE K.SURESH REDDY**CRIMINAL PETITION No. 7670 OF 2019****ORDER:**

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioners/Accused Nos.11 and 12, seeking to quash the proceedings against them in C.C.No.5391 of 2019 on the file of the Court of learned III Chief Metropolitan Magistrate, Vijayawada City (for short, 'the trial Court'), registered for the offences punishable under Sections 120-B, 403, 420, 408 r/w 109, 468, 471, 477-A r/w 149 IPC.

2. Brief facts, which led to filing of the present petition, are that on a report lodged by respondent No.2/de facto complainant, a case in Crime No.27 of 2016 of Penamuluru Police Station was registered against the accused for the aforesaid offences. The *de facto* complainant/2nd respondent is a reputed company engaged in the manufacture of food products under the brand name "Priya", having its production unit at Poranki, Vijayawada.

(ii) It is alleged that during the first quarter of the financial year 2014, while conducting routine verification of accounts relating to Khatedan Oil Plant, certain irregularities in freight charges were noticed. Upon further verification, it was revealed that there was large-scale misappropriation of funds in various operational areas of the company,

allegedly involving several officials, resulting in loss of more than Rs.5.00 crores.

(iii) After completion of investigation, charge sheet was filed against A1 to A12. As per the charge sheet, A3, who was working as General Manager (Operations) in the 2nd respondent-company, is alleged to have played a key role in the misappropriation of funds. It is further alleged that A3 transferred certain amounts from the misappropriated funds into the bank accounts of the petitioners herein, who are his daughter and wife respectively.

(iv) The trial Court, having taken cognizance of the offences based on the allegations set out in the charge sheet, numbered the case as C.C. No.5391 of 2019.

3. Heard Sri Sita Ram Chaparla, learned counsel representing Sri K. Gani Reddy, learned counsel for the petitioners, and Sri M.V. Durga Prasad, learned counsel representing Sri M.R.K. Chakravarthi, learned counsel for respondent No.2 and the learned Assistant Public Prosecutor for respondent No.1/State.

4. Learned counsel for the petitioners contends that the petitioners are neither employees nor connected with the affairs of 2nd respondent-company and that they have been falsely implicated merely on the basis of transfer of certain amounts into their bank accounts by

A3. It is contended that the 1st petitioner is a Software Engineer and 2nd petitioner is a housewife, and there is absolutely no material to show that they had any role in the alleged misappropriation or that they abetted the commission of the offence. As such, he requests this Court to allow the Criminal Petition by quashing the proceedings against the petitioners.

5. On the other hand, learned counsel for 2nd respondent opposed the Criminal Petition and submits that petitioners accommodated A3 to use their bank accounts for routing the misappropriated amounts and thereby facilitated the commission of the offence. It is further contended that such acts would amount to abetment within the meaning of Section 107 IPC. Hence, he requests this Court to dismiss the Criminal Petition.

6. This Court perused the entire material on record.

7. Admittedly, the petitioners are not employees of 2nd respondent-company. 1st petitioner is the daughter and 2nd petitioner is the wife of A3, who is working in 2nd respondent-company. Mere transfer of amounts by A3 into the accounts of the petitioners, by itself, cannot be construed as constituting abetment so as to term them as abettors.

8. For better appreciation of the issue, the definition of “abetment” as contained in Section 107 IPC is extracted hereunder:

“107. Abetment of a thing.—

A person abets the doing of a thing, who—

(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

(Thirdly)— Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.— A person who, by wilful misrepresentation, or by wilful 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.

Illustration:

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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 facilitate the commission thereof, is said to aid the doing of that act.”

9. In order to constitute abetment under Section 107 IPC, there must be material to show that the accused either instigated, conspired, or intentionally aided in the commission of the offence. Abetment necessarily involves a mental process coupled with an active act or conduct facilitating the commission of the offence.

10. In the present case, except the allegation that certain amounts were transferred into the accounts of the petitioners, there is no material to show that they had knowledge of the alleged misappropriation or that they intentionally aided A3 in committing the said offence. In the present case, except the allegation that certain amounts were transferred into the accounts of the petitioners, there is no material to show that they had knowledge of the alleged misappropriation or that they intentionally aided A3 in committing the said offence.

11. In support of his contentions, the learned counsel for the petitioners relied on the judgment of the Hon'ble Supreme Court in **Gangula Mohan Reddy v. State of Andhra Pradesh**,¹ wherein it was held as follows:

“11. The learned counsel for the appellant has placed reliance on a judgment of this Court in Mahendra Singh v. State of M.P. [1995

¹ (2010) 1 Supreme Court Cases 750

Supp (3) SCC 731 : 1995 SCC (Cri) 1157] In Mahendra Singh [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] , the allegations levelled were as under: (SCC p. 731, para 1)

“1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning.”

The Court on the aforementioned allegations came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under Section 306 IPC merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

12. The learned counsel also placed reliance on another judgment of this Court in Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] . A three-Judge Bench of this Court had an occasion to deal with a case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered “you are free to do whatever you wish and go wherever you like”. Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in para 20 has examined different shades of the meaning of “instigation”. Para 20 reads as under: (SCC p. 629)

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

13. In State of W.B. v. Orilal Jaiswal [(1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the court that a victim committing suicide was 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 conscience of the court should

not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

14 The Court in Ramesh Kumar case [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide by Seema may necessarily be drawn.

15. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

16. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2009) 11 Scale 24] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goadings". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

17. Abetment involves a mental process of instigating a person or intentionally aiding a person

in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide.

18. In the light of the provisions of law and the settled legal positions crystallised by a series of judgments of this Court, the conviction of the appellant cannot be sustained. Consequently, the appeal filed by the appellant is allowed and disposed of.”

12. The Hon'ble Supreme Court, in the decision referred to supra, has held that, in order to constitute abetment, there must be a clear *mens rea* and an active or direct act on the part of the accused to instigate or aid the commission of the offence, and in the absence of such material, the prosecution cannot be sustained. In the present case, the respondent No.2 did not attribute any allegation against the petitioners in the FIR. In fact, the petitioners were not shown as accused in the FIR. It is only after completion of the investigation that the petitioners came to be introduced as A11 and A12 in the charge sheet.

13. Having analysed the entire material on record and in the light of the above legal position, this Court is of the considered view that mere transfer of money into the accounts of the petitioners, who are the daughter and wife of A3, by itself, without any further material indicating their involvement, cannot be construed as abetment. As such, the continuation of proceedings against the petitioners/A11 and A12 is nothing but abuse of process of law.

14. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/A11 and A12 in C.C.No.5391 of 2019 on the file of the Court of learned III Chief Metropolitan Magistrate, Vijayawada City, are hereby quashed.

Pending miscellaneous applications, if any, shall stand disposed of in consequence.

Date:10.4.2026
GR

JUSTICE K.SURESH REDDY

HON'BLE SRI JUSTICE K.SURESH REDDY

CRIMINAL PETITION No. 7670 OF 2019

Date:10.4.2026
GR

