

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

Criminal Petition No.10924 OF 2022

Between:

Kyla Lakshma Reddy @ Lakshman @ Lucky ... Petitioner

And

The State of Telangana,
Rep. through Public Prosecutor,
High Court for the State of Telangana,
Hyderabad and another. ... Respondents

DATE OF JUDGMENT PRONOUNCED: 03.03.2023
Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No. 10924 of 2022

% Dated 03.03.2023

Kyla Lakshma Reddy @ Lakshman @ Lucky ... Petitioner

And

\$ The State of Telangana,
Rep. through Public Prosecutor,
High Court for the State of Telangana,
Hyderabad and another ... Respondents

! **Counsel for the Petitioner:** Sri J.Dheeraj reddy

^ **Counsel for the Respondents:** Sri S.Sudershan
Additional Public Prosecutor for R1

> **HEAD NOTE:**

? **Cases referred**

¹ AIR 2021 SC 4764

² Criminal Petition No.6456 of 2016, dated 21.01.2022

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.10924 of 2022****ORDER:**

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused in PRC No.30 of 2022 on the file of XIV Additional Metropolitan Magistrate, Medchal-Malkajgiri District at Kukatpally.

2. It is the case of the prosecution that the sister of the 2nd respondent committed suicide by swallowing four or five types of different tablets. The 2nd respondent lodged the complaint stating that the reason for her committing suicide was not known and there is no suspicion about anybody regarding the death.

3. The police, during the course of investigation, on examination of witnesses L.Ws.4 and 5, who are the friends of the deceased, found that this petitioner and the deceased were friends and lovers since ten years. This petitioner had promised the deceased that he would marry her and they were in relation over the said period. However, the petitioner had cheated the deceased and after going around with her for ten years, he got engaged with another girl and got married. Unable to bear the said trauma of the petitioner marrying another woman by cheating the deceased, the deceased

committed suicide. The police filed charge sheet against the petitioner for the offences under Sections 417, 420 and 306 of IPC.

4. Learned counsel appearing for the petitioner would submit that in the entire complaint there is no mention about this petitioner. Further, even considering the investigation done by the police, no offence under Section 306 of IPC is made. In support of his contention, he relied on the judgment of Hon'ble Supreme Court in the case of **Geo Varghese v. The State of Rajasthan**¹, wherein the Hon'ble Supreme Court held that to constitute an offence of abetment of suicide under Section 306 of IPC, there must be an allegation either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased would not be sufficient to convict a person. If a person is committing suicide on account of hyper sensitivity and 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. However, the Court also observed that every case on facts has to be decided.

¹ AIR 2021 SC 4764

5. He also relied on the judgment of this Court in **Patnam Subramanyam v. Public Prosecutor, Hyderabad**². It was observed that false promise of marriage should have a direct nexus to the woman's decision to engage in sexual act when they are in relation for a period of ten years. The contention that the girl engaged in sexual act with the accused on the promise of marriage gets diluted. Continuous relation itself would go to show that it was consensual affair and not arising out of misconception of fact out of a promise to marry.

6. On the other hand, learned Additional Public Prosecutor would submit that the allegations are serious in nature and only trial can determine whether the petitioner is responsible or not for the suicide of the deceased.

7. In the present case, according to the witnesses, petitioner and the deceased were on long term relation as friends and also on the basis of petitioner's promise to marry the deceased. The witnesses who are friends of the deceased stated that the deceased and the petitioner herein used to go around to various places and ultimately she was depressed on account of the petitioner marrying someone else by cheating the deceased.

² Criminal Petition No.6456 of 2016, dated 21.01.2022

8. Different persons react to a situation in a different manner. Long term relationship of ten years between the deceased and the petitioner and ultimately, petitioner leaving the deceased and marrying another woman even without her knowledge appears to be the reason, according to the investigation, for her suicide. The evidence is circumstantial in nature. It is for the prosecution to adduce evidence regarding the incitement or the circumstances that abetted the deceased to commit suicide. Only for the reason of there being relation over a period of ten years and failing to marry does not mean the deceased was hyper sensitive to the situation and did not react as normal person and committed suicide. The relation in between the deceased and the petitioner was kept under wraps by the deceased over a period of 10 years and only known after the death. The family members of the deceased did not know about her relation as seen from the complaint.

9. Instigation is to goad, provoke, incite or encourage doing an act. Abetment would involve a mental process to intentionally aid a person in doing a thing. In the present case, the trial Court has to look into whether the acts of the petitioner amounted to instigating the deceased to commit suicide or not, in the peculiar facts and circumstances of the present case.

10. This Court under Section 482 of Cr.P.C has to look into the circumstances cumulatively and cannot infer that no offence under Section 306 of IPC is made out only for the reason of the petitioner rejecting the marriage with the deceased. Since the narration of the witnesses of the friends of the deceased would go to show that the acts of the petitioner caused depression leading to commission of suicide, this Court deems it appropriate to give the prosecution a chance to examine their witnesses to elicit evidence and prove their case. The accused also will have a fair chance of defending himself.

11. There are no grounds to quash the proceedings against the petitioner and accordingly, the Criminal Petition is dismissed. Consequently, miscellaneous applications pending, if any, shall stand disposed.

K.SURENDER, J

Date:03.03.2023

Note: LR copy to be marked.

B/o.kvs

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.10924 of 2022

Dated: 03.03.2023

kvs

