
(2013) 07 AP CK 0126

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 865 of 2013

B. Muralidhar and Others

APPELLANT

Vs

The State of A.P. and P. Venkata Narayanareddy

RESPONDENT

Date of Decision : 04-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 107, 149, 300, 306, 330

Citation : (2013) 2 ALD(Cri) 711 : (2013) 3 ALT(Cri) 183

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

Advocate : P. Rajani Reddy, for the Appellant; D. Kodandarami Reddy, Advocate for the Respondent No. 2, for the Respondent

Final Decision : Disposed Off

Judgement

K.G. Shankar, J.—The petitioners are A. 1 to A. 5. A. 1 is the Sub-Inspector of Police. A. 2 to A. 5 are police constables. The de facto complainant by name P. Venkata Narayana Reddy, who is the second respondent was allegedly tortured by police to such an extent that his mother-in-law, who could not bear it, committed suicide on 04.11.2003. A private complaint was filed by the de facto complainant against the five petitioners for the offence under Sections 300, 348, 506 and 306 read with Section 149 of the Indian Penal Code (IPC). Sanction was ordered for prosecuting the petitioners/accused for the offences under Sections 330, 348 and 506 IPC. The learned counsel for the petitioners contended that the offence u/s. 306 IPC is not made out. As already pointed out, the second respondent/de facto complainant was taken by police into their custody. It allegedly happened during the mid night of 01.11.2003. The further case of the de facto complainant is that he was subjected to all sorts of torture and that his mother-in-law who could not withstand the torture meted out to the de facto complainant consumed pesticide and committed suicide.

2. The learned counsel for the second respondent drew my attention to the utterances of the deceased that A. 1 (by name) should be suspended and that no

one should face similar injustice as in the case of the victim. So uttering, the victim committed suicide.

3. The learned counsel for the petitioners contended that there was no instigation whatsoever for the victim to commit suicide, so much so, the offence u/s. 306 IPC is not made out. The learned counsel for the petitioners pointed out that u/s 107 IPC thirdly, intentional aiding, by any act or illegal omission, the doing of anything would be tantamount to abetment. His contention would appear to be that when the deceased committed suicide as she could not withstand the torture meted out to her nephew, it is tantamount to abetment on the part of the petitioners.

4. The learned counsel for the petitioners placed reliance upon *M. Mohan Vs. The State* represented by The Deputy Superintendent of Police, . In that case, it was observed that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. It was also pointed out that without a positive act on the part of the accused to instigate or aid in the commission of suicide, conviction could not be sustained. In *Gangula Mohan Reddy Vs. State of Andhra Pradesh*, the Supreme Court observed that in order to convict a person u/s. 306 IPC, there should be clear mens rea to commit the offence and that an active act or direct act leading the deceased to commit suicide should also have occurred.

5. In view of these decisions, it is not sufficient if the police caused harassment to the second respondent for the victim to commit suicide. There was no instigation whatsoever from the petitioners for the commission of suicide on the part of the victim. In fact, there was no act at all so far as the victim is concerned. I, therefore, agree with the contention of the learned counsel for the petitioners that the offence u/s. 306 IPC is prima facie not made out against the petitioner. Consequently, the order of the trial Court in refusing to discharge the petitioners for the offence u/s. 306 IPC is devoid of merits and is set aside. The petitioners are discharged in respect of the offence u/s. 306 IPC. The Criminal Revision Case is disposed of accordingly. The charges in respect of the other offences, however, remained in tact.