

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD
CORAM:

* HON'BLE SRI JUSTICE K. LAKSHMAN

+ CRIMINAL PETITION Nos.5819, 5939, 5961, 6095 & 6097 OF 2020

% Delivered on:02-12-2020

Between:

Gudur Sandeep Reddy & others .. Petitioners/
Accused Nos.18, 12, 15,
16, 9, 10, 13, 14 and 17

Vs.

\$ The State of Telangana rep.by Public
Prosecutor, Hyderabad. .. Respondent

! For Petitioner - A18 : Mr. Katika Ravinder Reddy

For Petitioners - A12, 15, 16, 9
10, 13, 14 & 17 : Mr. P. Vishnuvardhan Reddy

^ For Respondent : Public Prosecutor

< Gist :

> Head Note :

? Cases Referred :

1. (2006) 2 SCC 478
2. (2018) 7 SCC 192.
3. (2011) 3 SCC 377
4. (2011) 1 SCC 784
5. (2014) 3 SCC 474
6. AIR 2019 SC 3083
7. AIR 2017 SC 1685
8. (2020) 2 SCC 118
9. (2002) 3 SCC 598
10. (2010) 14 SCC 496
11. (2004) 7 SCC 528
12. (2013) 7 SCC 452

HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION Nos.5819, 5939, 5961, 6095 & 6097 OF 2020

COMMON ORDER:

All these Criminal Petitions are filed by respective petitioners seeking grant of regular bail. The respective petitioners are accused Nos.18, 12, 15, 16, 9, 10, 13, 14 and 17 respectively in Crime No.592 of 2020 on the file of Gachibowli Police Station, Cyberabad Commissionerate. The offences alleged against them are under Sections - 120B (1), 302, 365, 452, 509, 323 and 506 read with 34 of IPC.

2. Heard Mr. Katika Ravinder Reddy, learned counsel for the petitioner in Crl.P. No.5819 of 2020, Mr. P. Vishnuvardhana Reddy, learned counsel for the petitioners in Crl.P. Nos.5939 and 6095 of 2020 and representing Mr. R. Balraj Goud, learned counsel for the petitioners in Crl.P. Nos.5961 and 6097 of 2020, and also the learned Public Prosecutor appearing on behalf of the respondent - State. Perused the record.

3. This is a case of 'honour killing'. The accused have trespassed into the house of the *de facto* complainant and the deceased - Chintha Yoga Hemanth Kumar, having made preparations to commit offence to kidnap and murder the deceased with criminal conspiracy and criminal intimidation. The role played by each of the accused in

the commission of offence is specifically mentioned in the remand report.

4. As stated above, it is an honour killing. The deceased fell in love with the *de facto* complainant and decided to marry. They belong to different castes. The deceased belongs to 'Vsya Community' and the *de facto* complainant belongs to 'Reddy Community'. The parents of the *de facto* complainant were not happy with the said love affair and not interested in the proposal of the *de facto* complainant to marry the deceased. The parents of the *de facto* complainant with the help of their relatives, who are also accused in the present crime, tried to convince the *de facto* complainant and the deceased. They have forcibly taken the cell phone of the *de facto* complainant. For sometime they kept silent. Thereafter, the *de facto* complainant and the deceased continued to meet each other. They have also threatened the deceased and his father. But, there is no change in the attitude of the deceased. The deceased and the *de facto* complainant have continued their love affair and ultimately they got married on 10.06.2020 against the wishes of the parents of the *de facto* complainant. Due to the same, the parents of the *de facto* complainant were not happy and they felt insult in the society. They underwent trauma and they have tried to convince her daughter. But, there is no change in the decision of the *de facto* complainant. Therefore, the parents of the *de facto* complainant have hatched a plan to do away the life of the deceased. Accordingly, they have murdered

the deceased in connivance with the other accused for marrying their daughter which is an inter-caste marriage. Thus, it is an 'honour killing'.

5. This is not for the first time such an incident was happened in India, more particularly, in the State of Telangana. Honour killings have been happening now and then. Unfortunately, even after 73 years of Independence, the said incidents have been happening in India. 'Honour Killing' is another social evil which Indian Society is facing. 'Honour Killings' are still holding their place in today's society in spite of modern mind set and advance thinking. It is a global phenomenon. Even the advanced Countries, like United Kingdom, United States of America are facing the said problem. The statistics given by the National Crime Bureau on the honour killing shocks the conscious of the people of India.

6. From 2012 to 2017, 187 cases were reported in the State of Tamil Nadu alone. In one of the Rulings, the Apex Court mentioned that 288 cases of 'honour killings' are reported in India for the period from 2014 to 2016. From January, 2019 to June, 2019, 7 cases were reported in India, and out of them, 3 women were killed. 13 honour killing cases are pending in 8 Districts of Haryana itself. Similar cases were also reported in the States of Western Uttar Pradesh, Punjab and Delhi. The present case is second case reported in the State of Telangana in recent past.

7. Murder of a member of family due to perpetrators belief that the victim has brought shame or dishonour upon the family or has violated the principles of a community or a religion with an honour culture is called 'honour killing'. The killers justify their actions by claiming that the victim has brought dishonour upon the family name or prestige. The reasons for the honour killings appear to be that marriage out of caste, divorce, marriage by choice, homosexuality, pregnancy before marriage, inappropriate dressing etc. It also appears that the killers are committing the said honour killings to save their prestige of the family or done in order to make it an example for other or done out of rage or anger. But, there is no change in the attitude of young generation. Honour killers failed to appreciate the same.

8. It is trite to note that the caste system, illiteracy and poverty etc. including 'honour killing' are social evils which India is facing even after 73 years of Independence. On one hand, there is unimaginable development in the field of Science and Technology. People are planning to stay in other Planets, like Moon etc. They are using technology in all fields. On the other hand, the very same people of India are victims of social evils, like casteism and honour killings.

9. People are also influenced by caste system and other traditional practices which they believe to follow throughout their lives. One such thing, which Indian people consider very precious is,

“honour”. In a patriarchal society, women are considered as bearer of honour of the family.

10. Honour Killers fail to understand and appreciate the rights guaranteed by the Constitution of India to the people of India. Article - 14 deals with ‘right to equality before law’. As per Article - 15 (1) and 15 (3), there is prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. Article - 17 deals with abolition of untouchability. Article - 19 (1) deals with freedom to speech and expression, and Article - 21 deals with right to life and personal liberty.

11. The statistics also would reveal that most of the honour killings focus on women and very few on men and, thus, lead to gender based violence. The freedom of expressing a women or men’s choice is suppressed and the said suppression further leads to such killings, thereby violating the fundamental rights of the said persons. The perpetrators use religion or caste as grounds for dishonour, thereby trying to validate such killings. The said act is totally contrary to the constitution.

12. The Apex Court in **Lata Singh v. State of U.P.**¹, came heavily on the honour killings and made some general comments which are as follows:

¹. (2006) 2 SCC 478

“Since several such instances are coming to our knowledge of harassment, threats and violence against young men and women who marry outside their caste, we feel it necessary to make some general comments on the matter. The nation is passing through a crucial transitional period in our history, and this Court cannot remain silent in matters of great public concern, such as the present one.

The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the

couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law. We sometimes hear of 'honour' killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.”

13. It is also relevant to note that the Hon’ble Supreme Court has also observed that inter-caste and inter-religious marriages should be encouraged to strengthen the social fabric of society.

14. On the 27th March, 2018, the Hon’ble Supreme Court gave a landmark ruling in **Shakti Vahini v Union of India**², wherein it was held that any assembly to scuttle or preventing two consenting adults from marrying is absolutely 'illegal' and laid down preventive, remedial and punitive measures in this regard. Shakti Vahini, a Non-Governmental Organization filed the said writ petition and sought directions to States and the Centre to put in place a plan to curb honour killings. The court held, "the criminal cases pertaining to honour killing or violence to the couple(s) shall be tried before the designated Court/Fast Track Court earmarked for that purpose. The

². (2018) 7 SCC 192.

trial must proceed on day to day basis to be concluded preferably within six months from the date of taking cognizance of the offence. The direction shall apply even to pending cases. The concerned District Judge shall assign those cases, as far as possible, to one jurisdictional court so as to ensure expeditious disposal thereof.

15. The Apex Court laid down the following guidelines regarding judicial proceedings in cases of honour-based killings:

Punitive Measures:-

...

(e) The criminal cases pertaining to honour killing or violence to the couple(s) shall be tried before the designated Court/Fast Track Court earmarked for that purpose. The trial must proceed on day to day basis to be concluded preferably within six months from the date of taking cognizance of the offence. We may hasten to add that this direction shall apply even to pending cases. The concerned District Judge shall assign those cases, as far as possible, to one jurisdictional court so as to ensure expeditious disposal thereof. (India 27 Mar. 2018, para.53)The guidelines provide the following measures to be applied by the police forces in order to prevent honour-based violence:

I. Preventive Steps:-

...

(c) If information about any proposed gathering of a Khap Panchayat comes to the knowledge of any police officer or any officer of the District Administration, he shall forthwith inform his immediate superior officer and also simultaneously intimate the jurisdictional Deputy Superintendent of Police and Superintendent of Police.

(d) On receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with respect to the area/district) shall immediately interact with the members of the Khap Panchayat and impress upon

them that convening of such meeting/gathering is not permissible in law and to eschew from going ahead with such a meeting. Additionally, he should issue appropriate directions to the Officer[in] charge of the jurisdictional Police Station to be vigilant and, if necessary, to deploy adequate police force for prevention of assembly of the proposed gathering.

(e) Despite taking such measures, if the meeting is conducted, the Deputy Superintendent of Police shall personally remain present during the meeting and impress upon the assembly that no decision can be taken to cause any harm to the couple or the family members of the couple, failing which each one participating in the meeting besides the organisers would be personally liable for criminal prosecution. He shall also ensure that video recording of the discussion and participation of the members of the assembly is done on the basis of which the law enforcing machinery can resort to suitable action.

(f) If the Deputy Superintendent of Police, after interaction with the members of the Khap Panchayat, has reason to believe that the gathering cannot be prevented and/or is likely to cause harm to the couple or members of their family, he shall forthwith submit a proposal to the District Magistrate/Sub-Divisional Magistrate of the District/ Competent Authority of the concerned area for issuing orders to take preventive steps under the Cr.P.C. including by invoking prohibitory orders under Section 144 Cr.P.C. and also by causing arrest of the participants in the assembly under Section 151 Cr.P.C.

16. The Apex Supreme Court further laid down certain steps to be followed regarding cooperation between different governmental bodies which are as follows:

I. Preventive Steps:-

...

(g) The Home Department of the Government of India must take initiative and work in coordination with the State Governments for sensitizing the law enforcement agencies and by involving all the

stake holders to identify the measures for prevention of such violence and to implement the constitutional goal of social justice and the rule of law.

(h) There should be an institutional machinery with the necessary coordination of all the stakeholders. The different State Governments and the Centre ought to work on sensitization of the law enforcement agencies to mandate social initiatives and awareness to curb such violence. (India 27 Mar. 2018, para. 53)

If the gathering of Khap Panchayat still happens, the Supreme Court provides the following guidelines regarding remedial measures to be taken by police forces:

II. Remedial Measures:-

(a) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that the Khap Panchayat has taken place and it has passed any diktat to take action against a couple/family of an inter-caste or inter-religious marriage (or any other marriage which does not meet their acceptance), the jurisdictional police official shall cause to immediately lodge an F.I.R. [First Information Report] under the appropriate provisions of the Indian Penal Code including Sections 141, 143, 503 read with 506 of IPC.

(b) Upon registration of F.I.R., intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police who, in turn, shall ensure that effective investigation of the crime is done and taken to its logical end with promptitude.

(c) Additionally, immediate steps should be taken to provide security to the couple/family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety and threat perception. The State Government may consider of establishing a safe house at each District Headquarter for that purpose.

(d) Special cells should be created:

III. Punitive Measures:-

...

(c) The State Governments shall create Special Cells in every District comprising of the Superintendent of Police, the District Social Welfare Officer and District Adi-Dravidar Welfare Officer to receive petitions/complaints of harassment of and threat to couples of inter-caste marriage.

(d) These Special Cells shall create a 24 hour helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple.

If authorities do not comply with the guidelines provided by the Supreme Court, or if police officials do not take sufficient action to prevent an honour-based crime or to investigate such incident, the Apex Court states that the following measures are to be taken:

III. Punitive Measures:-

(a) Any failure by either the police or district officer/officials to comply with the aforesaid directions shall be considered as an act of deliberate negligence and/or misconduct for which departmental action must be taken under the service rules. The departmental action shall be initiated and taken to its logical end, preferably not exceeding six months, by the authority of the first instance.

(b) In terms of the ruling of this Court in Arumugam Servai (supra), the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident had already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

17. In the said background, coming to the facts of the case on hand, the role played by each of the accused in commission of the offence is mentioned in the remand report.

18. Accused Nos.2 and 3 are parents of the *de facto* complainant. Accused No.1 is maternal uncle of the *de facto* complainant. She fell in love with Chintha Yoga Hemanth (deceased) belongs to Vysya Community and decided to marry him. Since her parents did not agree for the same, she left her parents house and married him on 10.06.2020 against the wishes of her parents. She lived with the deceased at TNGOs Colony, Gachibowli. Her parents and relatives felt insult in the society. Though her parents and relatives tried to convince the *de facto* complainant to leave the company of her husband, she did not accept for the same.

19. As stated above, on 10.06.2020, the *de facto* complainant left her parents house without informing anybody, married the deceased. Since then, the parents of the *de facto* complainant were suffering with tears daily as they felt insult in the society. They have shared the said feelings with accused No.1, brother-in-law of accused No.2 and brother of accused No.3. Accused No.1 and close relatives of accused Nos.2 and 3, have also suffered a lot by feeling insult in the society. They have tried to convince the *de facto* complainant, but she did not heed to the said request. Therefore, they have decided to do away the life of the deceased to separate the *de facto* complainant from the deceased.

20. The accused Nos.1 to 3, maternal uncle and parents of the *de facto* complainant respectively, hatched a plan to kill the deceased.

Accordingly, accused No.1 started searching the persons who can help him in killing the deceased. He has approached accused Nos.5 to 6 and asked them to help for which they have demanded money, and the same was informed to accused No.2 by accused No.1, who in turn promised to pay an amount of Rs.10.00 lakhs. Accordingly, accused No.2 has paid an amount of Rs.1.00 lakh to accused No.1 towards advance with a request to kill the deceased. They have collected information from the *de facto* complainant by taking her into confidence and the address of the deceased who was staying at TNGOs Colony, Gachibowli, separately. Thereafter, accused No.8, brother of accused No.1 got the address of the deceased.

21. As per the remand report, dated 05.10.2020, it is further alleged that on 24.09.2020 afternoon at about 14:30 hours, accused No.1 along with accused Nos.5 to 7 left in Swift Car bearing No.TS 08ET 3031, in *i-20* Car No.TS 07EV 1449, accused No.17 driver of accused No.2, and accused Nos.9 and in Brezza Car bearing No.TS 15EX 9781, accused Nos.12 to 16 and accused Nos.2 and 10 on bike reached the house of the *de facto* complainant at TNGO's Colony, Gachibowli. They have trespassed into the house of the *de facto* complainant, they all beat the *de facto* complainant and the deceased with hands and forcibly took them into the car of accused No.10 stating that they want to discuss the matter at Lingampally. On the way at Gopanpally Cross road, they turned the Car towards ORR. Thus, the *de facto* complainant and her husband got suspicion on them

and jumped from the car and tried to escape. Then, accused Nos.1, 5, 6 and 7 chased the deceased and caught hold him. They forcibly dragged him into the car of accused No.1. On the way, accused No.1 dropped accused No.7 near his house at Vattinagulapally.

22. Later accused No.1 along with accused No.5 and 6 took the deceased in his car through ORR. They got down ORR near Patancheru and went to Zaheerabad. During the said period also, accused No.1 has advised the deceased to leave LW.1 for which the deceased refused. Immediately, accused No.1 has purchased jute rope in a shop at Zaheerabad and also purchased liquor in a Wine Shop. They have started to Patancheru side. In the meanwhile, accused Nos.5 and 6 tied the hands and legs of the deceased with the said jute rope. After they reached the outskirts of Kistaiahgudem village of Kondapur Mandal, accused No.1 stopped the car in the layout situated by the side of the Road. Accused Nos.1, 5 and 6 brought the deceased out from the car. Accused No.6 closed the nose and mouth of the deceased with cloth. Accused Nos.1 and 5 made the jute rope three rows and tied the same around the neck of the deceased and killed him by strangulation on the same day i.e. 24.09.2020 at 19:30 hours. Then, accused Nos.1, 5 and 6 threw the dead body in the nearby bushes. Accused No.5 took the gold *kadium*, gold chain of the deceased and kept with him. Accused No.1 took *i*-phone of the deceased and kept with him. Later accused No.1 kept the remaining jute rope in his car dickey and removed the SIM card from *i*-phone of

the deceased and made it into pieces and threw on the way. Thereafter, accused Nos.1, 5 and 6 went to Patancheru in the car of accused No.1. Accused No.1 called his friends, i.e., accused Nos.19 and 20 near to Yellamma temple, Patancheru and informed them about the murder of the deceased. Later, accused Nos.1, 6 and 19 consumed alcohol by which time accused No.20 dropped accused No.5 at Kollur Cross-road. After consuming alcohol, accused No.1 dialed to accused No.18, son of his relative Mr. Madhava Reddy and informed him about killing of the deceased. Accused No.1 further informed accused No.18 that he and accused No.6 are coming to him for dinner. Then, accused Nos.1 and 6 went to Ravalkole of Medchal through ORR in the car of accused No.1. In the early hours of 25.09.2020 at about 2:00 hours, accused Nso.1, 6 and 18 were caught hold by Gachibowli Police. Thus, it is alleged against the accused that accused No.1 in active connivance with other accused, trespassed into the house of the deceased, kidnapped and killed him in the manner stated above.

23. Mr. P. Vishnuvardhan Reddy, learned counsel for the petitioner would submit that there are no specific overt acts against accused Nos.12, 15 and 16 in the remand report. They are women. They have school going small children. He would further submit that the prosecution without segregating the role played by each of the accused in the commission of alleged offences from statements of witnesses implicated the petitioners herein. There are specific overt

acts against accused Nos.1 and 2. Against other accused, the allegations are vague. None of the witnesses spoke about the role played by the petitioners in the commission of offence. The matter is at pre-trial stage and investigation is pending. By referring to Section 107 and 109 of the Indian Evidence Act, learned counsel would submit that burden is on the prosecution to prove the allegations leveled against the petitioners herein including their role in the commission of offence.

24. The learned counsel for the petitioners would further submit that there is no conspiracy by the petitioners herein in the commission of offence. He has referred to Sections - 120A and 120B of IPC. There is no instigation by the petitioners herein. The prosecution has to segregate the evidence and also the statements of the witnesses examined before ranking the accused and they have to specifically mention the role played by each of the accused which they have not done in the present case. The vehicle numbers mentioned in the remand report, more particularly vehicle No.3031 do not belong to the petitioners herein. They are distant relatives of accused Nos.1 to 3.

25. The learned counsel for the petitioners would further submit that even as per the remand report, the petitioners herein accused Nos.9, 10, 12 to 18 did not trespass into the house of the deceased. They have not involved in the murder of the deceased. Even then, the police have implicated the petitioners herein in the

present case. The contents of the complaint and the remand report lacks the ingredients of the offences alleged against the petitioners herein. He would further submit that there is no allegation against the petitioners herein with regard to commission of offence under Section 302 of IPC and the allegations are against accused Nos.1 and 4 to 6. The presence of the petitioners at the place of offence is not there and they have not participated in any of the meetings and there is no hatching of plan by the petitioners herein as per the contents of the remand report. Therefore, the question of petitioners herein conspiring with other accused in commission of offence does not arise. He has placed reliance on the principle laid down by the Apex Court in **Arup Bhuyan v. State of Assam**³, **State of Kerala v. Raneef**⁴ and **Lingaram Kodopi v. State of Chhattisgarh**⁵ and would submit that as per the contents of the remand report, there is no conspiracy by the petitioners herein in the commission of offence. The police have not recorded the statements of any of the witnesses under Section 164 of Cr.P.C. Without segregating the role played by the each of the accused, the prosecution has implicated the petitioners in the present cases.

26. The learned counsel for the petitioners would further submit that the petitioners are in jail from 25.09.2020. The accused Nso.12, 15 and 16 being women they are entitled for protection under Section 437 (2) of Cr.P.C. The police have completed investigation

³. (2011) 3 SCC 377

⁴. (2011) 1 SCC 784

⁵. (2014) 3 SCC 474

and recorded the statements of most of the witnesses. The petitioners would abide by any of the conditions to be imposed by this Court and would cooperate with the Investigating Officer.

27. With the said submissions, the learned counsel for the petitioners sought to consider the bail applications of the petitioners herein.

28. Mr. K. Ravinder Reddy, learned counsel appearing for accused No.18 would submit that there is no allegation of trespass, kidnapping and murder of the accused. The only allegation against accused No.18 is that he has caused disappearance of evidence of offence with an intention to screen the offenders from legal punishment under Section 201 of IPC. The contents of the remand report lacks the ingredients of the offences alleged against accused No.18. He would further submit that accused No.18 has never conspired in the commission of offence and just because he is son of relative of accused No.1, the police have implicated accused No.18 in the present case. Even in the remand report, the only allegation against the petitioner is that accused No.1 has called him and informed him about the murder of the deceased and further informed him that he along with accused No.6 are coming to their house for dinner. Except the said allegation, there is no other allegation against accused No.18. He is in jail from 25.09.2020. Bail is right, jail is permanent. With the said contentions, the learned counsel for accused No.18 sought to consider the bail application of accused No.18.

29. On the other hand, the learned Public Prosecutor would submit that each of the petitioners have played their own role in commission of offence. Accused Nos.4 to 6 are hire killers and other petitioners - accused in the present cases are relatives of accused Nos.1 to 3. He has referred to the statements recorded by the police under Section 161 of Cr.P.C., confessional statements of the petitioners - accused and the remand report. He would further submit that accused Nos.2 and 3, parents of *de facto* complainant were not happy with her since she has married the deceased who belongs to other community. They felt insult in the society and they have shared the same with accused No.1, brother of accused No.3. The petitioners and other accused have felt insult in the society for the said inter-caste marriage of the *de facto* complainant. He would further submit that the accused have also tried to convince the *de facto* complainant not to continue her love affair with the deceased and they have also threatened once by taking the mobile phone of the *de facto* complainant forcibly. But, there is no change in the attitude of the *de facto* complainant. They have continued their love affair and ultimately got married on 10.06.2020 against the wishes of the parents of the *de facto* complainant. Therefore, accused Nso.1 to 3 and the petitioners herein have decided to do away the life of the deceased.

30. The learned Public Prosecutor would further submit that accused Nos.1 started searching hire killers to execute the said plan of killing of the deceased. Accordingly, he has approached several

persons including Vadde Sekhar, accused Nos.4 to 7, Shiva, Munna, Kalyan and accused No.11, and also accused Nos.19 and 20. They have agreed to pay an amount of Rs.10.00 lakhs to the said Sekhar and paid an amount of Rs.2.00 lakhs as advance. They have also paid an amount of Rs.1.00 lakh to Sekhar. He has referred to the statements of witnesses and also confessional statements of the accused and remand report in support of his contentions and would submit that the accused have attempted thrice to kill the deceased. He has also referred to the call data collected from the accused during the course of investigation. He would further submit that all the petitioners herein went to the house of the deceased, trespassed into the said house criminally, dragged him from the house and got him into the Car with an intention to kill. Thus, it is a clear case of conspiracy to kill the deceased. Thus, there are specific overt acts against the petitioners - accused and the role played by each of the accused is specifically mentioned. The contents of the remand report would reveal that there is *prima facie* evidence against the petitioners herein with regard to their role in commission of the offence.

31. The learned Public Prosecutor would further submit that LW.1 dialed 100 and LW.2 went to the spot. He has also referred to Section 362 of IPC and would submit that whoever by force compels or by any deceitful means induces any person to go from any place is said to abduct that person. In the present case, accused No.8 brother of accused No.1 and 3 have collected the address of the deceased by

taking his niece i.e., *de facto* complainant into confidence by speaking to her sweetly. Thus, the contents of the statements of the witnesses recorded under Section 161 of Cr.P.C. , the role played by each of the accused in the commission of offence is specifically mentioned in the remand report. All of them have beaten the deceased. Though the deceased and *de facto* complainant jumped out of the Car, accused have chased them and dragged him into the Car which shows that they have intention to kill the deceased. Therefore, it is a clear case of kidnapping and abducting in order to murder the deceased.

32. The learned Public Prosecutor would submit that LW.1, mother of the deceased is running a beauty parlour and accused No.3, 12, 15, 16 and the *de facto* complainant used to visit the said beauty parlour which is opposite the house of the *de facto* complainant. Even LW.1 used to go to their functions as a beautician. He would further submit that the police have called LW.2, father of the deceased, to Chandanagar Police Station, where the petitioners - accused were present. Thus, they have conspired with each other in commission of offence. Accused No.17 is the driver of accused No.2 and he has also actively participated in the commission of offence.

33. The learned Public Prosecutor would submit that it is a clear case of criminal trespass into the house of the deceased with an intention to kill him by kidnapping him. The statements of the witnesses recorded, contents of remand report would clearly reveal the role played by each of the accused in the commission of offence.

According to him, it is an 'honour killing'. The accused were not happy with the inter-caste marriage of the *de facto* complainant with the deceased. He has relied upon the principle laid down by the Apex Court in **Asim Shariff v. National Investigation Agency**⁶, **Virupakshappa Gouda v. The State of Karnataka**⁷ and **Lata Singh**¹ and would submit that the Apex Court heavily commented on the honour killing way back in 2006 itself. Even then, there is no change in the attitude of the people and it is a clear case of honour killing. He would further submit that the accused including the petitioners herein instead of accepting the love affair and marriage of the *de facto* complainant with the deceased, opposed the same and went to the extent of eliminating the deceased with an intention to separate the *de facto* complainant with the deceased.

34. The learned Public Prosecutor would further submit that the investigation is still pending. The petitioners herein have committed heinous crime of honour killing. The manner in which they have committed the offence would reveal that there is every possibility of petitioners herein interfering with the investigation by threatening the witnesses and to get over the witnesses. The matter is at crime stage. In the event of consideration of bail applications of petitioners will send a wrong message to the society since the petitioners have actively involved in honour killing. The learned Public Prosecutor would further submit that the Government has taken

⁶. AIR 2019 SC 3083

⁷. AIR 2017 SC 1685

a decision to constitute a 'Special Court' for trial of present case. With the said submissions, the learned Public Prosecutor sought to dismiss the bail applications.

35. The above stated facts and also perusal of remand report, statements of the witnesses recorded under Section 161 of Cr.P.C. would reveal that the *de facto* complainant fell in love with the deceased. They have decided to marry. They belong to different castes. The parents of the *de facto* complainant tried to convince her. But, there is no change in her attitude. They have even threatened the *de facto* complainant and forcibly took the mobile phone also. But, ultimately she has married the deceased on 10.06.2020 against the wishes of her parents and relatives.

36. Accused Nos.2 and 3, parents, accused No.1, maternal uncle and other accused who are petitioners herein, distant relatives of the *de facto* complainant, were not happy with the said marriage and attitude of the *de facto* complainant and the deceased. They felt insult in the society. Accused Nos.2 and 3 expressed their displeasure and the said insult before accused No.1. Other accused who are distant relatives of the *de facto* complainant also felt insult in the society for the said inter-caste marriage. They have hatched a plan to do away the life of the deceased and to separate the *de facto* complainant from the deceased. Thus, all the accused in connivance with each other conspired together to do away the life of the deceased.

37. From the statements recorded under Section 161 of Cr.P.C. of the witnesses and also remand report would reveal that LWs.2 and 3, parents of the deceased, after their marriage, stayed in Piduguralla of Guntur District for sometime. Thereafter, they have shifted to Karampudi of the very same District for their livelihood. LW.2, father of the deceased used to work as 'Clerk'. Thereafter, he has started business and suffered loss. Therefore, they have shifted to Hyderabad in 2005 with an intention to do real-estate business. They have settled in Chandanagar.

38. LW.1 has started beauty parlour in 2008 at Chandanagar, Serilingampally. The *de facto* complainant used to stay in the opposite house of LW.1. *De facto* complainant, her mother (accused No.3) accused Nos.12, 15 and 16 used to come to the said beauty parlour. Thus, she got acquaintance with the *de facto* complainant, her mother and accused Nos.12, 15 and 16. She used to go to their residences as beautician during functions. *De facto* complainant used to come to the house of LW.1. The deceased, elder son of LW.1 did his graduation and he fell in love with the *de facto* complainant. The parents of the *de facto* complainant threatened LW.2, father of deceased. Thereafter, accused No.3, mother of *de facto* complainant and accused Nos.12, 15 and 16 and also other relatives stopped coming to the beauty parlour of LW.1, due to the said strained relations between them.

39. The deceased used to work in Asian Paints as Colour Coordinator and thereafter started his own business. On coming to know about love affair of the *de facto* complainant, her parents forced her to resign her job and forcibly taken away the mobile phone in November, 2019. Ultimately, on 10.06.2020, they got married against the wishes of parents of the *de facto* complainant. On the same day evening, LW.2, father of deceased, got phone call from Chandanagar Police Station on the complaint of 'missing woman'. The parents of deceased have informed the said fact to the deceased and requested him to come to their house, for which the deceased refused saying that there is no marriage certificate with them. Thereafter, they have taken a room at TNGOs Colony, Gachibowli. The owner of LW.1 have intervened in the matter and tried to convince both the families.

40. On 17.06.2020, LW.1 and LW.2 went to the Commissioner of Police Office and on the advise of the Commissioner, they went to P.S. Chandanagar along with their known people, where the parents, elder brother, accused Nos.1, 8, 9, 10, 14, 12, 13, 15, 16, 17 and others were present. They have requested the *de facto* complainant to come to their house, for which she has replied that she would come later. Some altercation took place there with regard to properties which are in the name of the *de facto* complainant. LWs.2 and 3, parents of the deceased, have also lodged a complaint with Police Station stating that they have life threat from the parents and the relatives of the *de facto* complainant. After 1-2 days thereafter, the

properties which are in the name of *de facto* complainant were transferred by executing registered documents in SRO office, Sankarapally, Sanga Reddy, Serilingampally in the presence of Mr. Malla Reddy, mediators. Thereafter, the *de facto* complainant and the deceased started staying in TNGOs Colony, Gachibowli. After some days, accused No.18, relative of *de facto* complainant, called LW.2, father of the deceased, and threatened him to provide phone number of deceased and also his address.

41. On 24.09.2020, accused criminally trespassed into the house of the deceased, beat him with hands, dragged him into the car forcibly. LW.1 dialed 100. They found the *de facto* complainant weeping and accused Nos.8, 9, 10, 12, 15, 16 were present and they were trying to take the *de facto* complainant forcibly with them. Accused Nos.9 and 10 teased the LW.1 saying that she is not in a position to bear one-hour of absence of her son and how they are bearing the absence of the *de facto* complainant for so many days and they have abused LW.1.

42. It is further alleged against the petitioners herein that accused Nos.8, 9, 10, 12, 15 and 16 threatened the *de facto* complainant and tried to get her into car to take her to their house and in the mean while, police reached there. LW.1 and LW.2 along with *de facto* complainant gave complaint in the office of the Commissioner of Police.

43. Accused No.17 is the driver of accused No.2. He drove the car and he was present every time. The petitioners - accused Nos.8, 9, 10, 12, 15 and 16 were also present. All the accused in active connivance with each other, have hatched a plan to do away the life of the deceased. They have made attempts thrice to kill the deceased. They have approached the hire killers including accused Nos.4 to 6, Vadde Shankar, Shekar, Siva, Munna, Kalyan, Accused Nos.11, 19 and 20. They have paid advance of Rs.2.00 lakhs to Sekhar, owner of Water Tankers and Tippers, to kill the deceased with his tippers and water tankers. They have paid an amount of Rs.1.00 lakh to Mr. Shanker. Thus, they have made attempts to kill the deceased thrice.

44. It is relevant to note from the contents of the remand report that accused No.18 is relative to the *de facto* complainant. He has threatened the father of the deceased to provide his mobile number and the address of the deceased over phone. After killing the deceased, accused No.1 has called accused No.18 and informed about killing of the deceased and that he along with accused No.6 coming to their house for dinner. The police have apprehended accused Nos.1, 6 and 18 in the house of accused No.18. Thus, *prima facie*, there are specific overt acts even against accused No.18 in the commission of offence.

45. In view of the above, *prima facie*, there are specific allegations / overt acts against the petitioners and the accused. Accused Nos.12, 15 and 16 have acquaintance with the mother of the

deceased and they used to go to her beauty parlour. On coming to know about love affair, they stopped going to the said beauty parlour. They were present in Chanda Nagar Police Station on 17.06.2020 and they have requested the *de facto* complainant to come to their house. They went to the house of the deceased on 24.09.2020, trespassed into the house of the deceased along with other accused, and dragged the *de facto* complainant into the car forcibly to take her to the house of accused No.2 and 3.

46. Accused No.16 is the wife of accused No.13, first cousin of accused No.2. Accused No.15 is the wife of accused No.9, nephew of accused No.2. Accused No.10 is another nephew and accused No.12 is niece of accused No.2 and brother and sister of accused No.9. Father of Accused Nos.9, 10 and 12 died during their childhood, and accused No.2 brought them up. Accused Nos.13 and 14 are cousins of accused No.3, mother of *de facto* complainant. Thus, accused Nos.9, 10, 12 to 16 and 18 are close relatives of the *de facto* complainant. Accused No.17 is the driver of accused No.2.

47. As discussed above, the role played by each of the accused is specifically mentioned in the remand report and also the statements recorded by the police under Section 161 of Cr.P.C. In view of the same, the contention of the learned counsel for the petitioners that the police have not segregated the statements of the witnesses and also the role played by each of the accused and implicated them in false case cannot be accepted. Therefore, the principle laid down by the Apex

Court in judgments cited by the learned counsel for the petitioners is not applicable to the facts of the present case. Investigation is still pending. The allegations levelled against the petitioners herein are serious in nature. It is submitted by the learned Public Prosecutor that a decision has been taken to constitute a 'Special Court' to try the present case.

48. In **Mahipal v. Rajesh Kumar @ Polia**⁸, a Two-Judge Bench of the Hon'ble Supreme Court [Dr. D.Y. Chandrachud J., speaking for the Court], discussed with regard to the power of granting bail under Section 439 of Cr.P.C. and held that the power to grant bail under Section 439 of Cr.P.C. is of a wide amplitude. Though the grant of bail involves the exercise of discretionary power of the Court, it has to be exercised in a judicious manner and not as a matter of course. In the said case, the guiding factors for exercise of power to grant bail as held in **Ram Govind Upadhyay v. Sudarshan Singh**⁹, were referred, which are as follows:

“3. Grant of bail though being a discretionary order - but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case...The nature of the offence is one of the basic considerations for the grant of bail - more heinous is

⁸. (2020) 2 SCC 118

⁹. (2002) 3 SCC 598

the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the Accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be (2002) 3 SCC 598 considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the Accused is entitled to an order of bail.”

49. It was further held in the very same judgment that the determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the Accused are important. No straight jacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the

evidence on record to establish beyond reasonable doubt the commission of the crime by the Accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the Accused had committed the offence and on a balance of the considerations involved, the continued custody of the Accused sub-serves the purpose of the criminal justice system.

50. The Apex Court referred to the factors to be borne in mind while considering an application for bail in *Prasanta Kumar Sarkar v Ashis Chatterjee*¹⁰, and the said factors are as follows:

- “(i) whether there is any prima facie or reasonable ground to believe that the Accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the Accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the Accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

.....

12. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal...”

¹⁰. (2010) 14 SCC 496

51. The Apex Court has also referred to the principles laid down by it in **Kalyan Chandra Sarkar v. Rajesh Ranjan**¹¹, wherein it was held that the Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the Accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind.

52. It is also relevant to note that in a recent judgment in **Central Bureau of Investigation v. V.Vijay Sai Reddy**¹², the Apex Court held as follows:

“while granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words reasonable grounds for believing instead of the evidence which means the court dealing with the

¹¹. (2004) 7 SCC 528

¹². (2013) 7 SCC 452

grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce *prima facie* evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

53. In view of the above said legal position, as discussed supra, there is *prima facie* and reasonable grounds to believe that the petitioners have committed offence. *Prima facie*, there are specific allegations against each of the petitioners and the role played by them in commission of offence is also specifically mentioned. The *modes operandi* adopted by the petitioners and other accused in the crime would also *prima facie* disclose that they have committed the offences to do away the life of the deceased to separate the *de facto* complainant from him. Considering the said aspects and in view of the fact that the investigation is still pending, this Court is not inclined to grant regular bail to the petitioners herein.

54. Accordingly, all the Criminal Petitions are dismissed.

55. However, it is relevant to point out that the role played by the police in the entire episode is not satisfactory. The parents of the deceased have met the Commissioner of Police, Cyberabad Commissionerate, who in turn advised them to approach the Police Station, Chandanagar. Accordingly, they went to the Chandanagar Police Station and lodged a complaint on 17.06.2020 with Chandanagar Police Station complaining that they have life threat

from the parents and relatives of the *de facto* complainant. On 10.06.2020 the father of the deceased received a phone call from Chandanagar Police Station and accordingly he went to the Chandanagar Police Station and met the police officials there. Some of the accused including the petitioners herein were present at the police station Chandanagar, both on 10.06.2020 and 17.06.2020. Even on 24.09.2020 at about 2.00 p.m., parents of the deceased dialed 100. Even in the statements recorded by the police under Section 161 of Cr.P.C. of the parents of the deceased would reveal that on 24.09.2020, the petitioners and other accused dragged the deceased forcibly into car, took him towards ORR, the petitioners herein threatened the *de facto* complainant to come to their house and tried to get her into the car forcibly, the parents of the deceased made hues and cries, police came there and advised them to go to Gachibowli Police Station and lodge a complaint. Thereafter, the parents of the deceased and the *de facto* complainant went to the Commissioner of Police Office in an auto-rickshaw who in turn advised them to go to the Gachibowli Police Station. Therefore, they went to the Gachibowli Police Station between 5.30 p.m. to 6.00 p.m. and lodged a complaint complaining about the kidnapping the deceased. Thus, the police came to know about the inter-caste marriage of the *de facto* complainant with deceased on 10.06.2020 and also on 17.06.2020. The said facts were mentioned in the statements of both LWs.2 and 3 recorded by the police under Section - 161 of Cr.P.C. Despite lodging complaint by the parents of the deceased complaining that they have

life threat from the parents and relatives of the *de facto* complainant, the police have not taken any preventive measures to prevent the incident. It appears that the police have not taken any steps in accordance with law on the complaint lodged by the parents of the deceased. Thus, the police have utterly failed in preventing the incident. The said action of the police is contrary to the guidelines issued by the Apex Court in the judgments cited supra. Hope the police will take appropriate measures in preventing such incidents in future.

As a sequel, miscellaneous petitions, if any, pending in the Criminal Petitions shall stand closed.

02nd December, 2020

Note: L.R. copy to be marked: YES
(B/O)
Mgr

K. LAKSHMAN, J