IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.13157 OF 2023

BETWEEN:

KUMARA C
S/O CHELUVARAJU,
AGED ABOUT 31 YEARS,
PRESENLTY R/AT JANATHA COLONY MULLUSOGE,
KUSHALNAGARA,
KODAGU 571234.

...PETITIONER

(BY SRI. LETHIF B., ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
REPRESENTED BY KUSHALNAGAR TOWN POLICE
STATION, KODAGU DISTRICT,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE 560001

2 . KANTHARAJU K S
S/O LATE SANNEGOWDA,
R/AT MARUTHI LAYOUT, 1ST BLOCK,
MULLUSOGE, KUSHALNAGARA,
KODAGU 571234

...RESPONDENTS

(BY SMT. ANITHA GIRISH, HCGP FOR R1;
SRI. MAHESH C M., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.1220/2023 FOR THE OFFENCE P/U/S 306 OF IPC OF KUSHALNAGAR POLICE STATION, KODAGU NOW PENDING ON THE FILE OF THE CIVIL JUDGE AND J.M.F.C, KUSHALNAGAR.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.07.2024 THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE K.NATARAJAN

RESERVED FOR ORDERS ON: 25.07.2024
PRONOUNCED ON : 30.07.2024

CAV ORDER

(PER: HON'BLE MR JUSTICE K.NATARAJAN)

This petition is filed by the petitioner under Section 482 of Cr.P.C. for quashing the FIR and charge sheet in C.C No.1220/2023 registered by Kushalnagar Police Station in Crime No.40/2022 for the offences punishable under Section 306 of IPC.

2. Heard the arguments of learned counsel for petitioner and Learned High Court Government Pleader for respondent-State

3. The case of the prosecution is that on the complaint filed by Kantharaju K.S, the father of the deceased filed on 29.08.2022 alleging that his adopted daughter Lancy aged about 21 years was studied up to B.Com and she had love affair with the accused/petitioner, since five years. On 29.08.2022 at about 3.30 p.m the petitioner telephoned his wife and told the deceased was not lifting the phone. Hence, his wife went and knocked the door, she has not opened the door and then about 5.30 p.m., when his wife knocked the door she did not open. Therefore, she peeped through the window and found her daughter was committed suicide by hanging. Hence, she break open the door and saw that she was already died, then the deceased left a death note stating that the petitioner/accused was responsible for her suicide.

4. The police after registering the FIR, completed the investigation and filed the charge sheet which is under challenge.

5. The learned counsel for the petitioner has contended that there is no ingredients to attract Section 107 of IPC for abatement and committing suicide by the deceased and merely death note is left that itself is not a ground to show that he has abated the deceased to commit suicide and she was under depression. Therefore, prays for quashing the criminal proceedings.

6. *Per contra,* respondent counsel has contended that there was continuous harassment made by the petitioner on the deceased. He has refused to marry her, there was telephone conversation and massages between the petitioner and deceased. The police have seized the same and sent to FSL but FSL report is not

yet received. There is a *prima facie* material to frame the charges and harassment made by the petitioner on the deceased. Hence, prays for dismissing the petition.

7. The Learned High Court Government Pleader also objected the petition contending that there are continuous death note written by the deceased, where the accused suspected her character and refused to marry her. Therefore, the accused forced her to commit suicide. The investigation is completed and the charge sheet is already filed. If at all any defence available then the accused shall take the same before the trial Court and therefore prays for dismissing the petition.

8. Having heard the arguments, perused the records

9. The learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in **Mohit Singhal and another -vs- State of Uttarakhand**

and others reported in **(2024) I SCC 417**, where the Hon'ble Apex Court quashed the criminal proceedings wherein there was financial dispute between the deceased and the accused and it is stated that there is no mens rea to instigate the deceased to commit suicide.

10. In another case in Criminal Appeal No. ------/2024 arising out of SLP (Criminal) Dairy No. 39981/2022 in the case of **Prabhu -vs- State** represented by the Inspector of Police, wherein the Hon'ble Supreme Court quashed the criminal proceedings under Sections 306 and 417 of IPC and Hon'ble Supreme Court has considered various judgments and quashed the FIR and charge sheet.

11. The learned counsel for the respondent and Learned High Court Government Pleader for respondent-State has contended that on reading of the

death note and messages between the accused and deceased reveals that there was harassment made by the petitioner to the accused and not only he has refused to marry her but after five years of love he has suspected her character and abused her in filthy language and therefore there is no other option to deceased to commit suicide.

12. There is no second thought in respect of the principals laid down by the Hon'ble Apex Court the above cases stated *supra.* But here in this case, where the petitioner continuously had love with the deceased and subsequently he agreed to marry her, later he refused to marry her, on the ground of suspecting her character stating that she is having affair with some other persons. Apart from that, the death note itself reveals that she has stated he is suspecting her character, she has categorically stated in the death note that he has suspected her character and also told

that she cannot do anything to him and even if she dies, he can face the Court case and he will not worry as she is not having good character.

13. Though the first death note was started in 01.08.2022 and later even prior to the death she has written another death note by implicating the accused. On reading of the entire death note, which clearly reveals that the petitioner abused her with criminal intention and even he has dare enough to say that even if she commit suicide, he will face the Court case and she cannot do anything against him, which clearly reveals that there was conversation between the deceased and the accused, even prior to the suicide. Otherwise there is no question of the accused telephoning to the mother of the deceased and informing that she (deceased) is not lifting the phone and ask the CW-2 to give the telephone to the deceased which clearly reveals that prior to committing

suicide there was a conversation between the deceased and the accused. The accused was having knowledge about the deceased going to commit suicide.

14. Therefore, the facts and circumstances differs from the case, which the judgment relied by the counsel for the petitioner, once a statement were given in respect of the love affairs, death note and CDR prior to the suicide were all a presumption available to the prosecution and the accused is required to face the trial and rebute the evidence of the prosecution witnesses in the Court of law. Therefore, the accused is required to take the trial.

15. The police has investigated the matter and filed the charge sheet, the FIR report, in respect of CDR is not yet received. Therefore, the petition is devoid of merits and liable to be dismissed.

Accordingly, petition filed by the petitioner under Section 482 of Cr.P.C is hereby **Dismissed**.

Sd/-
(K.NATARAJAN)
JUDGE

VS
CT:SK