



WEB COPY



Crl.O.P.No.25694 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.11.2022

Pronounced on : 18.08.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25694 of 2016

and

M.P.No.12537 of 2016

Thangavel

... Petitioner / A2

Vs.

1.C.Marimuthu

2.State Represented by its
Inspector of Police,
CBCID, Namakkal
Namakkal District.
(Crime No.1 of 2014)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in P.R.C.No.2 of 2016, on the file of the learned Chief Judicial Magistrate, Namakkal and quash the same.

For Petitioner	:	Mr.R.Karthikeyan
For Respondent-1	:	Mr.R.Sankarasubbu For Mr.K.C.Karl Marx
For Respondent-2	:	Mr.L.Baskaran Govt.Advocate (crl.side)



ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1057 of 2014, pending on the file of the learned Judicial Magistrate at Tambaram sofar as it relates to the petitioners / A5 & A6 herein.

2. The brief facts of the case are as follows:-

(i) On 13.09.2013, at 23.30 hrs., the complainant - V.Raju appeared before Namakkal Police Station, gave a written complaint, stating that he is working as an Accountant in Kurinji Higher Secondary School, Namakkal and staying in the students hostel. At about 9.45 P.M two students came and informed him that one Mohanraj, a student of XI EB4 staying in room No.418, went to his room, bolted from inside, did not open, despite repeated tapping, when peeped through the broken window saw him found hanging from the ceiling fan with a red colour nylon rope. When he went there, he saw the neighbouring students broken open the door. He untied the knot and took Mohanraj in the school van to the Government Hospital. Namakkal, where the duty doctor disclosed that Mohanraj was dead.



(ii) On the strength of the said complaint, a case in Crime No.932 of 2013, under Section 174 of Cr.P.C., was registered by the Inspector of Police, Namakkal Police Station and subsequently, altered to Section 306 IPC. The Inspector of Police, Namakkal visited the scene of occurrence, prepared a rough sketch, observation mahazar, recovered the material objects, held inquest over the dead body of the deceased, sent the dead body of the deceased for autopsy to the Government Mohan Kumaramangalam Medical College Hospital, Salem, examined the witnesses and recorded their statements.

(iii). At this stage, the father of the deceased viz Marimuthu, filed a petition in Crl.O.P.No.26000 of 2013, before this Court, for transfer of investigation to CBCID, and this Court, by an order dated 05.03.2014, transferred the Investigation to the CB-CID., Namakkal. Accordingly, a case in Namakkal C.B.C.I.D Crime No.1 of 2014, under Section 174 Cr.P.C. @ 306 IPC., During the course of the investigation, as many as 34 witnesses were examined and their statements recorded. There are two issues forthcoming from the investigation i.e. (i) Whether Mohanraj has committed suicide owing to the act of the co-student Karthi abused him and his parents in filthy languages and threatened him that he will do away with him, if he complain against him before the School Authorities and (ii) Whether Mohanraj has committed suicide owing to



the assault made on him by the Correspondent of the School and accuse him that he is at fault.

WEB COPY

(iv) Earlier, the arms-tighter machine of one Nithinkrishna was taken by one Prakash, a co-student, without his consent, for which, Nithinkrishna beat Prakash. Mohanraj, being the room mate of Nithinkrishna, asked him to tender apology from Prakash, for which, he arranged a meeting in his Room No.418 on the eve of 12.09.2013 by bolting the door from inside. At that time, one of the schoolmate by name Karthi supported Prakash with his friends tapped the door of room No. 418 repeatedly and finally it was opened by Mohanraj. Then Karthi abused Mohanraj in filthy languages as to why he bolted the door from inside. He continuously abused Mohanraj on the next day in his class room and also in his Room No.225, when Mohanraj came to pacify with him. Then Mohanraj complained this to the Correspondent of the School, who called both himself and Karthi and when enquired Karthi complained that it was Mohanraj, who abused him and did not believe the version of Mohanraj. When Mohanraj asked the Correspondent to deal with the matter impartially, the Correspondent slapped him on his cheek, abused him that he might be at fault and told him that he will call his father and inform the matter and will hand over Transfer Certificate to him. Mohanraj knelt before him, prayed that not to call his father,



since he is unwell.

WEB COPY

(v) The act of student Karthi, abusing Mohanraj in filthy languages so also his parents, the conditions imposed on Mohanraj and slapped him with a view to correct him are not the sufficient cause that lead to Mohanraj to commit suicide. Further so far as the paper slip on which Mohanraj has written that Karthi and the school are responsible for his committing suicide has no significance at all. since the first investigation officer K.Rajanikanth, the Sub Inspector of Police, Namakkal, categorically stated that he has not seen any paper slip on the wall of the Room No. 418 said to have been written by Mohanraj about 'Karthi and the school' are responsible for his committing suicide, while observing the scene of occurrence. Therefore no reliance could be placed upon this issue. At this stage it would be more appropriate to say that for the purpose of strengthening the prosecution case 164 Cr.P.C. statements of four witnesses were recorded, but they have not fully corroborated their own earlier version of their statements when examined u/s 161 (3) Cr.P.C. On the other hand, Mohanraj, a boy of good behaviour and timid in nature, apprehending danger at the hands of his father, if the school authorities complain against him to his father, got vexed in life and committed suicide by hanging on his own accord, with red colour nylon rope to the ceiling fan of his room after bolting the door from inside.



There is no substantive evidence forthcoming to connect either the student Karthik @ Karthikeyan or the School Authorities, with this crime and it is clear from the investigation coupled with the medical evidence that the deceased Mohanraj committed suicide by hanging. The former Investigation Officer dropped further action and filed final report before the Learned Trial Court CJM. Namakkal, on 18.12.2014 and R.C.S.No.2 of 2014 served to the defacto complainant.

3. Mr.R.Karthikeyan, the learned counsel appearing for the petitioner would submit that on the strength of the complaint, dated 13.09.2013, given by one V.Raju, who is working as Accountant in Kurinji Higher Secondary School, Namakkal, before the Inspector of Police, Namakkal Police Station, a case in Crime No.932 of 2013 registered under Section 174 Cr.PC., subsequently, altered to Section 306 IPC. The Inspector of Police, Namakkal, took up investigation, examined the witnesses and came to conclusion that it is a clear case of suicide by hanging, as no offenses made out against the accused, filed closure report before the learned Chief Judicial Magistrate, Namakkal, dropping further action. The 1st respondent, father of the victim, filed objections to the final report. The learned Chief Judicial Magistrate entertained the objections of the 1st respondent, rejected the final report filed by the 2nd respondent and took the case as private complaint in P.R.C.No.2 of 2016,



directed the accused to appear on 26.10.2016 to answer the charges for offences under section 306 I.P.C.

WEB COPY

4. The learned counsel further submitted that the ingredients of the offence under section 306 I.P.C., are not made out as against the petitioner. Even according to the prosecution, the deceased Mohanraj tried to effect compromise between two groups and at that time, the said Karthik @ Karthikeyan(A1) came in support of Prakash and a clash seems to have taken place between 11.09.2013 and 12.09.2013. On 13.09.2013, a complaint was made to the petitioner in the capacity as Correspondent and to the Hostel warden, who sorted out the same. The deceased Mohanraj left to his room, committed suicide by hanging. Further, none of the witnesses speak about the abatement caused by the petitioner, and thereby, the question of abetting the deceased does not arise. The trial Court erred in drawing adverse inference against the petitioner on the ground that the suicide note not collected and considered. The Photographer, who took photographs, denies the availability of the suicide note. But, the case of the Prosecution is that one Bharatkumar found the suicide note of the deceased, which read as "the cause of my death is EB8 Karthik and the School". Even admitting the same, the said note does not implicate the petitioner and no motive can be attributed against the petitioner.



5. The learned counsel, relying on the Judgment of the Apex Court in ***Minukumari & Another Vs. State of Bihar and Others*** reported in **(2006 (4) SCC 359)** would submit that a right to file a protest petition only accrues to the defacto Complainant alone and not to a victim and no one else. Further, the learned counsel relied on the Judgment of Supreme Court in ***Madan Mohan Singh Vs. State of Gujarat*** and Another reported in **(2010 (8) SCC 628)** and in ***Sanju Alia Sanjay Singh Sengar Vs. State of M.P.*** reported in **(2002 (5) SCC 371)** in support of his contention that no case for abetment of suicide is made out against the petitioner. In the present case, the 1st respondent could not have filed objections to the final report and he has no *locus standi* to file the same. The very initiation of the proceedings itself is an abuse of process of law and the ingredients of the offense not made out as against the petitioner. Hence, the learned counsel prays to allow the petition.

6. Mr.L.Baskaran, the learned Govt.Advocate (crl.side) appearing for the State would submit that on 13.09.2013, at 23.30 hrs., one Raju, who is working as 'Accountant' in "Kurinji Higher Secondary School", Namakkal, stating that one Mohanraj, a student of XI EB4 staying in Room No.418, found hanging from the ceiling fan. He took Mohanraj to the Government Hospital. Namakkal, where the duty Doctor declared



him brought dead. Pursuant to which, a case in Crime No.932 of 2013, registered under Section 174 of Cr.P.C., subsequently, altered to Section 306 IPC. Latter, as directed by this Court, on the petition filed by the father of the deceased, the investigation transferred to CBCID. The Investigation Officer dropped further action and filed final report before the Learned Chief Judicial Magistrate, Namakkal, on 18.12.2014, who in turn rejected the Final Report filed by the prosecution, took cognizance against the accused persons viz., Karthikeyan, Thangavelu and Renu Singh, and the same was assigned in P.R.C. No. 2 of 2016, directed the accused to appear on 26.09.2016 to answer the charges levelled against them.

7. In the mean time, the petitioner/ accused A2 Mr.Thangavelu preferred the present petition in Crl.O.P.No.25694 of 2016 and A3/Renusingh preferred a petition in Crl.O.P.No.25946 of 2016, seeking to quash the proceeding against them in P.R.C.No. 2/2016. On 23.02.2019, A3 / Renusingh died. Hence, recording the same, the petition filed by him in Crl.O.P.No.25946 of 2016 disposed of on 28.03.2022. Anyhow, now the matter is at PRC stage, the petitioner, at this stage, approached this Court by way of filing the present petition to quash the proceeding. The classmates, roommates of the deceased Mohanraj, clearly given statement of harassment, humiliation and



threat, at the hands of the accused, including the petitioner. Further, the petitioner supporting the wrongdoer, which caused anguish, abetted Mohanraj to commit suicide. The grounds raised by the petitioner are disputed facts to be decided at the time of trial, hence, prayed for dismissal of the petition.

8. Mr.R.Sankarasubbu, the learned counsel appearing for the 1st respondent would submit that the 1st respondent, father of the deceased Mohanraj, practicing advocate. The deceased Mohanraj was studying in "Kurunji Higher Secondary School", Namakkal and was staying in the Students Hostel. On 10.09.2013, Mohanraj's friend Nithin Krishna complained that his arms tighter was taken away, without his knowledge and for that incident, Nithin Krishna slapped Prakash. The friends of Prakash, on knowing the same, asked Nithin Krishna to tender apology and Nithin Krishna was forced to apologies. Later Mohanraj advised there could not be any quarrel among the friends and tried to compromise the matter between Nithin Krishna and Prakash. Al-Karthik @ Karthikeyan came to the room of Mohanraj, used filthy language, abused and raised his voice. The deceased Mohanraj complained about the indecent and the conduct of Karthik @ Karthikeyan(A1) to the Correspondent Thangavelu(A2) and to the Warden Renusingh(A3) and other teachers as well, on 11.09.2013,



morning. A1 / Karhtik @ Karthikeyan again came along with his friends to the classroom of the deceased Mohanraj, scolded him in filthy language, again on 11.09.2013 at 11.00 PM, A1 came to the Room No.418, where the deceased Mohanraj stayed, abused using filthy language. On 12.09.2013, the deceased and his roommates made a complaint to the Headmaster, who summoned A1 / Karthik @Karthikeyan and his friends, when they appeared, he took note of the events, but not taken any action, which embolden A1. Further, on the same day, the deceased and his friend gave complaint the petitioner(A2), the Correspondent of the School. On 13.09.2013, A2 summoned the deceased, enquired, unilaterally held Mohanraj as wrongdoer, who made false compliant against Karthick and threatened the deceased by uttering, “cd;d ghj;jhny bghk;gs bghWf;fpaha; ,Uf;fpwha; cdf;F orp FLj;J gs;spia tpl;L mDg;gp tpLfpnwd;”

9. Further, in the study room, in front of other students, the petitioner slapped Mohanraj on his cheek and scolded him. Again on 13.09.2013, at 8.00 p.m., A3 summoned the deceased and A1, through mike, A1 was already sitting in front of A3 / Warden - Renu Singh. During enquiry by A3, A1 stamped deceased foot when the deceased made a complaint to A3, he scolded the deceased saying that “cdf;F bgha; brhy;tJ ntiyaha; nghr;rp cd; KPQ;r ghj;jhny bjhpa[J cd;d gj;jp fu];ghz;ld;l;



brhy;ypa[s;shh;. eP XU bghk;gs bghWf;fp ,g;go bghWf;fpaha; ,Uf;fwJf;F ngha; brj;J nghfyhk;” Further A1 endorsed, added and told the deceased - “ngha; rht[“. From 10.09.2013 to 13.09.2013, the deceased was humiliated by A1 to A3, finally, due to unbearable torture, at the instigation of A1 to A3, on 13.09.2013, at 9.30 p.m., he committed suicide by hanging.

10. The learned counsel further submitted that on information from the School administration, the 1st respondent along with his wife rushed to the Government Hospital, Namakkal, at 10.30 p.m., the hospital authorities informed that the deceased Mohanraj died and his body is in the mortuary. The first respondent, on hearing the incident from the Inspector of Namakkal Town Police station, rushed to the school hostel, where he was informed about the torture undergone by the deceased from 10.09.2013 to 13.09.2013. However, the case was registered under Sec. 174 Cr.P.C. on the complaint given by one Accountant Raju, in Cr.No.923 of 2013. The Investigation officer took the matter lightly without considering the sequence of events leading to continuous unbearable torture and finally abetting the suicide, the 4 points stated by the Investigation Officer in the closure report, 'further action dropped' are (I) Mohanraj committed suicide due to the usual quarrel among students (ii) A2 and A3 cannot be held responsible as they only reprimanded Mohanraj (iii) There were no evidences against



A2 and (iv) The witnesses have contradicted their own statements given earlier. The said report is beyond the scope of the investigating officer and he cannot adjudicate the matter and he ought to have placed the entire facts and materials to the Court. The Investigating Officer, adjudicate the veracity of the suicide note, dehors the statements of witnesses and attending circumstances.

11. It is his further submission that the evidence collected from the students would show that the deceased was having good conduct and was friendly with the co-students. Instead of reprimanding A1 Karthik @ Karthikeyan the petitioner used foul words and language touching upon the conduct of the deceased Mohanraj. The evidence of the students are without any doubt supports the cause of the deceased. The motive and other criminal conduct of Karthik @ Karthikeyan revealed the same inch by inch and due to unjustified and unquestionable support of the petitioner, the deceased committed suicide. The petitioner / A2 continuously abetted the ragging and harassment of the deceased at the hands of A1. Further, the suicide note categorically state that A1 – Karthick @ Karthikeyan and the School Administration is the reason for his suicide. The suicide note is a basic and primary material to build up the prosecution case. Hence, the learned counsel for the 1st respondent prayed for dismissal of the



petition.

WEB COPY

12. I have heard the learned counsels appearing on either side and perused the materials available on record.

13. Most of the basic facts are not at all in dispute. In this case, A1/Karthik @ Karthikeyan is a co-student; A2-Thangavel / Petitioner herein is the Correspondent of the School and A3 – Renusingh(since died), is the Warden of the School. On 13.09.2013, the deceased Mohanraj, a student of XI EB4, staying in Room No.418, found hanging from the ceiling fan. Based on the complaint, case in Crime No.932 of 2013, registered under Section 174 of Cr.P.C., latter altered to Section 306 IPC. The Investigation Officer, after investigation, dropped further action, filed final report before the Learned Chief Judicial Magistrate, Namakkal, on 18.12.2014. The learned Magistrate, rejected the Final Report, took cognizance against A1 to A3 viz., Karthik @ Karthikeyan, Thangavelu and Renu Singh, and the same was assigned in P.R.C.No. 2 of 2016, directed the accused to appear on 26.10.2016 to answer the charges for offences under section 306 1.P.C. Aggrieved over the same, the petitioner is before this Court with the present petition.

14. The deceased Mohanraj, is a minor student, studying XI



Standard and was staying in the hostel. It is a matter of common knowledge that a boarder of a hostel, who is admittedly a child, will have to be taken care of by the warden of the hostel and the school authorities. In other words, the School Management, takes the responsibility of local guardian and protector of a child student, a boarder. If the boarder comes in some peril, they cannot claim to exonerate themselves by throwing the blame at the door steps of the child boarder. No doubt, in general, the students staying in the hostel have quarrel with one another, even for silly matters. At the same time, it cannot wish away serious dispute between the students, duty is cast upon to nip the dispute at the very beginning itself. When there was repeated complaints made by the deceased, no serious attention shown by the School Authorities. In fact, it was the negligence of the Management of the School allowing such things to happen in the premises of the school campus.

15. It is seen from the report of the Investigation Officer that the Investigation officer very lightly taken the matter, without appreciating the sequence of events. Further, the Investigating Officer cannot adjudicate the mater and must place all facts as it is and cannot appreciate whether it is suicide or not. On perusal of 161(3) statements of Krishnakanth, Nithin Krishna, Chandramohan, Mullivendan, Akash



Kumar, Sudan, Barathkumar, Ashraf Ahamed, Abdu Bashid, Mohan Pradeep, Suriya Prakash, it is seen that there was enmity between the deceased Mohanraj and A1-Karthi @ Karthikeyan and the subsequent action taken by the Management of the School is one sided and biased. Further, the suicide note of the deceased reads that "the cause of my death is EB8 Karthik and the School". On 13.09.2013, A2 summoned the deceased, enquired, unilaterally held that Mohanraj is the guilty person and he made a false compliant against Karthick and threatened him by uttering that "cd;d ghj;jhny bghk;gs bghWf;fpaha; ,Uf;fpwha; cdf;F orp FLj;J gs;spia tpl;L mDg;gp tpLfpnwd;". Further, in the study room, in front of other students, A2, the petitioner herein slapped Mohanraj on his cheek and scolded him, which abetted the young boy to take such extreme step of suicide by hanging. Some of the students have given statements under Section 164 Cr.P.C., which cannot be brushed aside, *prima facie* materials available. At the stage of cognizance, the Courts to find out whether *prima facie* materials available to proceed with the case, not to consider whether it will lead to conviction. The entire materials properly appreciated by the learned Magistrate and I have no reason for interfere with the order of the learned Chief Judicial Magistrate, Namakkal and the petition for quashment is liable to be dismissed.



WEB COPY

16. In view of the forgoing reasons, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed. Needless to state that the observations made in this petition is only for deciding the present case on hand, and it is left open to the trial Court to decide the issue, at the appropriate stage, in accordance with law, without being influenced by the observations made herein.

17. Since it is almost a decade from the date of occurrence, and the trial in this case is kept pending without any progress, the committal Court to commit P.R.C.No.2 of 2016, without further delay, within a month to the Court of Sessions. The Sessions Court to proceed with the trial, on a day-to-day basis and to conclude the trial within a period of four months from the date of committal. If any dilatory tactics adopted throttling the progress of the case, the Courts to take coercive action, ensure the case reaches its logical end without delay.

18.08.2023

Index : Yes/No
Internet : Yes / No
mpk/vv2



WEB COPY



Crl.O.P.No.25694 of 2019

To

- 1.The Chief Judicial Magistrate,
Namakkal.
- 2.The Inspector of Police,
CBCID, Namakkal
Namakkal District.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.25694 of 2016

M.NIRMAL KUMAR, J.

MPK/VV2

Pre-Delivery Order made in

CRL.O.P.No.25694 of 2016

18.08.2023