

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Crl.MC.No. 2984 of 2014 ()

AGAINST THE ORDER/JUDGMENT IN CP 34/2014 of JUDL.MAG.OF FIRST CLASS-I, MANJERI CRIME NO. 78/2013 OF KARUVARAKUNDU POLICE STATION , MALAPPURAM

PETITIONER(S) :

1. ANUSREE, P AGED 20 YEARS,
D/O.ACHUTHAN KUTTY, PANAMPUZHY HOUSE, MATTARAKKAL P.O
PERINTHALMANNA TALUK, PIN - 679 322.
2. ACHUTHANKUTTY, AGED 46 YEARS,
S/O.KARUNAKARA MENON, PANAMPUZHY HOUSE,
MATTARAKKAL P.O., PERINTHALMANNA TALUK, PIN - 679 322.
3. JAYASREE C, AGED 41 YEARS,
W/O.ACHUTHANKUTTY, PANAMPUZHY HOUSE,
MATTARAKKAL P.OPERINTHALMANNA TALUK, PIN - 679 322
4. RAVI, AGED 41 YEARS,
S/O.VASUDEVAN, MANJERI HOUSE
MATTARAKKAL P.O.PERINTHALMANNA TALUK, PIN - 679 322.
5. REMANI, AGED 34 YEARS,
W/O.RAVI, MANJERI HOUSE, MATTARAKKAL P.O.
PERINTHALMANNA TALUK, PIN - 679 322.

BY ADVS.SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
 2. HARISH, AGED 29 YEARS,
S/O.MANGOTTIL PRABHAKARA PANICKER, RADHIKA NIVAS,
THUVOOR P.O., NILAMBOOR TALUK,
MALAPPURAM DISTRICT. PIN - 679 327.
- R2 BY ADV. SRI.U.K.DEVIDAS
R2 BY ADV. SMT.LIJI KUTTAPPAN
R BY PUBLIC PROSECUTOR SMT.LIZHA M.G.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
14/9/2015-2015, THE COURT ON 29/9/2015 PASSED THE FOLLOWING:

Crl.MC.No. 2984 of 2014 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE-A: TRUE COPY OF COMPLAINT DATED 14.2.2013 SUBMITTED BY 2ND
RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, MANJERI.

ANNEXURE-B: TRUE COPY OF FIR IN CRIME NO.78/2013 OF KARUVARAKUNDU
POLICE STATION.

ANNEXURE-C: TRUE COPY OF REFER REPORT FILED BY THE POLICE

ANNEXURE-D: TRUE COPY OF COMPLAINT DATED 22.7.2013 SUBMITTED BY 2ND
RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, MANJERI.

ANNEXURE-E: COPY OF SWORN STATEMENT OF 2ND RESPONDENT.

ANNEXURE-F: COPY OF SWORN STATEMETN OF CW2 IN ANNEXURE D COMPLAINT

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE.

SUNIL THOMAS, J.

Crl.M.C. No. 2984 of 2014

Dated this the 29th day of September, 2015

O R D E R

The petitioners, who are the accused in Annexure D complaint in C.P.No.34/2014 of the Judicial First Class Magistrate Court, Manjeri, seek to quash the above proceedings.

2. The 2nd and 3rd petitioners are the parents of the first petitioner. 4th and 5th petitioners are their relatives. The first petitioner was married to the second respondent on 14/12/2012, and was residing in the matrimonial home. While so, on 21/12/2012, when she, along with the second respondent were traveling in his motor cycle, they got a telephone call asking them to immediately return home. When they reached home, it was found that the mother of the second respondent had set herself on fire and committed suicide. Thereafter, it is alleged that the relationship with the husband and the in-laws got

strained, since they started alleging that it was because of her bad omen that the mother- in -law had committed suicide. Thereafter, she was taken to her home by the parents. In the meanwhile, the crime was registered with respect to the death of the mother-in-law and ultimately after the investigation, a report was filed before the Sub Divisional Magistrate, as a case of suicide. On 14/2/2013, the husband filed a complaint before the Judicial First Class Magistrate Court-1, Manjeri, alleging commission of offences punishable under Sections 450,306,506(i) & (ii) and read with Section 149 IPC against the petitioners herein and another person as Annexure A. It was alleged that the first petitioner herein had love affair with the 6th accused therein and suppressing it, the marriage was got registered. It was alleged by the 2nd respondent that the petitioners had thereby abetted suicide of his mother. The above complaint of the 2nd respondent was forwarded to the police, who registered a crime as Crime No. 78/2013 of Karuvarakundu police station. After investigation, a refer report was filed stating that the allegation levelled

against the petitioners were false and there was no abetment to commit suicide. Subsequently, the 2nd respondent filed a fresh complaint dated 22/7/2013 before the same Magistrate Court repeating the very same allegations, as in Annexure A complaint, as Annexure D. The above case was also referred to the police and is now pending as C.P.No.34/2014 for offence punishable under Section 306 IPC. Alleging that Annexure D complaint was laid as a process for harassment, that even from the complaint no offence punishable under Section 306 IPC is made out, and contending that it amounts abuse of process of court, the petitioners have approached this Court invoking Section 482 of Crl.P.C.

3. Heard both sides and examined the records.

4. Annexure A is the previous complaint. It alleges that after the commencement of the matrimonial relationship, the first petitioner herein used to make excessive phone calls, internet, e-mails and SMS, to communicate with the 6th accused. According to the de facto complainant, she used to make frequent calls to one

person by name Amritha, who according to the de facto complainant, was in fact the 6th accused. Though the de facto complainant and his mother claims to have advised her to desist from such a relationship, she did not heed to it and continued the relationship with the 6th accused. It was further alleged that the mother of the de facto complainant apprehended that the first petitioner may elope with the lover, which caused considerable agony and anxiety to the mother- in-law and the family members. Consequently, the mother- in- law committed suicide.

5. Perusal of the above complaint indicates that there is no definite allegation that the conduct of the first petitioner herein was such that it drove her mother in law to commit suicide. Except making a wild allegation that the first petitioner used to contact with the 6th respondent and that it had caused mental tension and agony to her mother-in-law, there is no specific allegations in the petition that it was her conduct that was directly attributable to the committing of suicide by the mother in law. The police, after investigation, found that there was

no substance in the above complaint and referred the matter. Without persuing that, thereafter yet another complaint was filed as Annexure D, which indicates that it is nothing but a verbatim re-production of all the allegations made in Annexure A. No new ground or fact has been made out in the above.

6. It is pertinent to note that the de facto complainant was examined by the court below and his own statement was recorded on 16/12/2013, a copy of which was produced along with Crl.M.A. No.9294/2015. The sworn statement of the de facto complainant repeat the several apprehensions. In the sworn statement, a new allegation was raised that a suicide note of the mother was recovered. Even the contents of the alleged suicide note, as deposed by defacto complainant, only narrates that the mother- in -law had thanked the accused Nos. 5 and 6 for bringing such a good daughter-in-law. The interpretation of the de facto complainant was that this was made by the mother in law in a sarcastic manner. This alleged suicide note, was not referred to in the earlier proceedings. Even

the contents of the alleged suicide note does not attribute any ingredients of Section 306 or that the conduct of the petitioners were such as to drive her to commit suicide. Even in the sworn statement, the de facto complainant had stated that he believed that the conduct of his wife and her wayward life was responsible for the death of the mother-in-law. This only shows a mere apprehension and not that the conduct of accused left the deceased with no other option except to commit suicide. Even if the suicide note is proved, it is possible of several interpretations.

7. The scope of Section 306 has been considered by the Hon'ble Supreme Court and this Court in various decisions, which were referred by the learned counsel for the petitioners herein. In **Murali v. Sub Inspector of Police** (2012 (4) KHC 702), this Court held that in the absence of any statement in the suicide note that other than some cruel treatment, there was abetment from accused in driving a person to commit suicide an offence under Section 306 is not attracted. The legal position was discussed in **Sanju @ Sanjay Singh Sangar v. State of**

Madya Pradesh (2002(5) SCC 371) and **Unnikrishnan Nair v. State of Kerala** (2014(1) KLT 30). Unnikrishnan Nair's case was considered by the Hon'ble Supreme Court in Criminal Appeal No.2086/2014. A copy of that judgment was made available at the time of hearing. Summing up the legal positions, as laid down by the Supreme Court in its earlier decision, the Apex Court in Unnikrishnan Nair's case held that the intention of the Legislature and the ratio of the cases decided by the Supreme Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that the deceased person committed suicide.

8. A perusal of the complaint and the sworn statement of the de facto complainant indicate that there is absolutely no material to show the above ingredients, which have been found to be essential by the Supreme

Court in all the earlier decisions, have been made out, except more apprehensions. It is also evident in Annexure D complaint that after the death of the mother, there was some dispute between both the families and attempts were made for settlement of the dispute. There was dispute regarding the gold ornaments which were given at the time of the marriage. It is also on record that the wife had filed a crime, as Crime No.91/2013, against the husband in which he had availed the bail. Annexure D is stated to be filed as a retaliation. It is also further noted that even though the police found the earlier complaint to be baseless, without challenging that, a fresh complaint on the very same facts and allegations has been filed, which indicates that the complaint is filed only with mala fide intention.

9. In the above circumstances, it is clear that even with the admitted facts on record, conviction under Section 306 IPC is impossible. It appears that the complaint is only an abuse of process of court and continuance of it may result in manifest injustice. Hence,

it is liable to be quashed invoking Section 482 Cr.P.C.

10. In the result, the Crl.M.C. is allowed. All further proceedings pursuant to Annexure D complaint and the proceedings in C.P.No.34/2014 of Judicial First Class Magistrate Court, Manjeri, stand quashed.

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.