

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.15521 of 2015
and
M.P.No.1 of 2015

1.T.Balaraman
2.Chinnappa

...Petitioners

Vs.

1. State Rep. by
Assistant Superintendent of Police,
Tirupattur Sub Division,
Vellore District.

2. K.Samu

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the entire records relating to PRC.No.2 of 2014 on the file of the Judicial Magistrate No.1, Tirupattur and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.R.Ezhilarasan

For Respondents : Mr.C.Emalias [for R1]
Additional Public Prosecutor
Mr.P.Muthukumar &
Ms.R.Anitha [for R2]

O R D E R

This Criminal Original Petition has been filed praying to quash the records in PRC.No.2 of 2014 on the file of the learned Judicial Magistrate No.1, Tirupattur.

2. It is the case of the prosecution that Thangam got married to Saravanan on 10.03.2008 and their matrimonial life was not very happy. Thangam committed suicide on 23.05.2013 by hanging in the matrimonial home.

3. On a complaint lodged by Samu, the father of Thangam, the respondent Police registered a case in Crime No.254 of 2013 under Section 174 Cr.P.C., Since the death of Thangam was within seven years of marriage, the Tahsildar conducted inquest and enquiry. After completing the investigation, the respondent Police filed a final report in PRC.No.2 of 2014 before the learned Judicial Magistrate No.I, Tirupattur for the offences under Section 498(A) IPC., and 4 of the Dowry Prohibition Act 1961 read with 34 of I.P.C., and 306 of I.P.C., against Saravanan (A1), Balaraman (A2) and Chinnapappa (A3). A2 and A3, who are the parents of Saravanan (A1) and parents-in-law of the deceased, are before this Court to quash the prosecution in PRC.No.2 of 2014 on the file of learned Judicial Magistrate No.I, Tirupattur.

4. Heard Mr.R.Ezhilarasan, the learned counsel for the petitioners; Mr.C.Emalias, the Additional Public Prosecutor for the first respondent and Mr.P.Muthukumar and R.Anitha for the second respondent/defacto-complainant.

5. The learned counsel for the petitioner submitted that there are absolutely no materials against the petitioners herein for facing the prosecution launched by the respondent Police. Per contra, the Police have filed a counter wherein in paragraphs 12,13 and 14, it is stated as follows :

"12. It is submitted that during the course of investigation, on 10.09.2013 and 11.09.2013, had re-examined totally 23 witnesses and recorded their statements. After completion of detailed and elaborated investigation, I had obtained legal opinion from the Deputy Director of Prosecution and altered the section as 498(i), 306 IPC and 408 DP Act and filed a final report and charge sheet against A-1 to A-3 i.e., Saravanan/A-1 ; Balaraman/A-2 & Chinnapappa / A-3 petitioners herein before the learned JUDicial Magistrate No.1, Tirupattur and the same was taken on file vide P.R.C.No.2/2014 on 06.02.2014 and the same is pending. The next hearing date 07.08.2015 for appearance of the accused/A-1 to A-3.

13. It is submitted that, in the final report, there are totally 26 witnesses were cited by the respondent police and recorded their statements. Now at this juncture, there are ample evidences available against the petitioners/A-2 & A-3. The witnesses are against the petitioners/A-2 & A-3 and the same are evident in the said final report.

14. It is submitted that the petitioners herein filed this present petition after lapse of 15 months from the date of filing final report with an intention to escape from the clutches of law and also to drag and prolong the trial proceedings."

6. The learned counsel for the defacto-complainant also submitted that there are sufficient materials against the petitioners herein warranting enquiry. This Court gave its anxious consideration to the final report and the materials gathered by the Police. On a reading of the enquiry report dated 31.05.2013 of the Sub-Collector cum Sub Divisional Magistrate, it is seen that Thangam and Saravanan got married on 10.03.2008 and after that, they lived for some time in the joint family. Later, the spouses established separate home, that was away from the petitioners. The enquiry report shows that Saravanan (A1) was addicted to liquor and that he used to come drunk everyday and subject her to cruelty. It is also seen from the report that the petitioners, who are the parents-in-law of Thangam (deceased) were well-off and living separately and that they had spent money to establish a separate house-hold for the couples to live. In fact, the first petitioner has settled his properties in favour of his two sons and thereafter he is living with his wife away from them.

7. On a careful analysis of the statements of various independent persons, it is seen that the deceased and her husband Saravanan used to quarrel very frequently and that the deceased used to threaten that, she will commit suicide. In fact, the incident had taken place in the house of A1 and not in the house of the petitioners herein. That apart, the Revenue Divisional Officer's enquiry does not reveal the commission of an offence under Section 304(B) I.P.C., On the contrary, these petitioners are charged for an offence under Section 306 read with 109 IPC.,

8. In the considered opinion of this Court, there cannot be an abetment of abetment of suicide. It is quite understandable

that after the death of their daughter, the family members of Thangam would have implicated every relative of the son-in-law and that is why in cases of this nature, a Senior Revenue Officer at the level of Sub Collector-cum- Magistrate are directed to conduct enquiry. The enquiry report also shows that, when the Sub-Collector went to the place of occurrence, Saravanan (A1) was fully drunk and he was not even in a position to get-up. Therefore, the suicide of Thangam was mainly on account of her husband's drunkardness.

9. In the result, this Court is of the view that, the present prosecution against these petitioners will be an abuse of process of law and accordingly the final report in PRC.No.2 of 2014 on the file of learned Judicial Magistrate No.I, Tirupathur, as against the petitioners herein, are hereby quashed. Today, the learned counsel for the petitioner handed over a gold chain belonging to deceased Thangam to her brother, in the open Court.

10. In view of the above, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed. Whatever is observed above is for the purpose of deciding this quash petition qua the petitioners and the Trial Court shall proceed with the trial of A1 without in anyway being influenced by this order.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate I,
Tirupattur.
2. -Do- Through The Chief Judicial Magistrate,
Vellore.

3. The Assistant Superintendent of Police,
Tirupattur Sub Division,
Vellore District.

4. The Public Prosecutor,
High Court, Madras.

1 CC to Mr.R.Ezhilarasan, Advocate SR.No. 45675

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GI (CO)
PSI (18.09.2015)



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