

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.08.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.32862 of 2013
and MP.Nos.1,2 of 2013

1.Sri Kumar Fomra
2.Sathish

... Petitioners (Accused 1 & 2)

Vs

State rep by
Inspector of Police,
E-8, Kelambakkam Police Station,
Kancheepuram District. Respondent (Complainant)

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records in SC.66 of 2011 on the file of the
learned Principal District and Sessions Judge, Chengalpattu
[wrongly mentioned as Judicial Magistrate-I, Chengalpattu] and to
quash the same.

For Petitioners : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in
SC.No.66 of 2011 on the file of the learned Principal District and
Sessions Judge, Chengalpattu.

2. Heard the learned counsel for the petitioners; learned
Additional Public Prosecutor appearing for the respondent and
perused the materials placed on record.

3. It is seen that the deceased was a student studying in I
year EEE Engineering at SMK Fomra Institute of Technology at
Senganmal, Thaiyur and she is an hostelite. On 27.05.2010, the
deceased committed suicide by hanging in her hostel room. The
police registered a case in Crime No.291 of 2010 for an offence
under Section 306 IPC and after completing the investigation, they
have filed Final Report against the accused herein for the said
offence. Police investigation clearly shows that the death was on
account of suicide and not homicide. The Final Report filed by the
police reads as follows:

"The deceased Anithra Paschisia, aged about 19 years D/o.Vijaykumar Pachisia Aligar is studying I year EEE Engineering at SMK Fomra Institute of Technology at Senganmal, Thaiyur and studying at the Women Hostel of the said Institute at Thaiyur.

The accused A-1 is the Chairman of the SMK Fomra Institute of Technology and the accused A-2 is the Manager of the said Institute.

Prior to 27.05.2010 the accused A-1 and A-2 scolded the deceased Anithra Paschisia by not to speak any men students during class times in the said institute and seized the ID card of the deceased Anithra Paschisia. During evening hours on 27.05.2010 the accused A-1 called Anithra Paschisia to his chamber and when she delayed to go to the chamber of A-1 the accused A-2 scolded her nrh;kd; miHj;jhy; eP tukhl;lhah and he compelled to go to A-1, Chamber, and when Anithra Paschisia went to the chamber of A-1 and there A-1 scolded her to vacate the Hostel room otherwise he informed to her parents. Because of the frequent scolding and threatening of A-1 and A-2 Anithra Paschisia dejected her life.

That prior to 27.05.2010, the accused A-1 and A-2 voluntarily abetted the deceased Anithra Paschisia to commit suicide in the above said manner, and Anithra Paschisia has committed suicide on 27.05.2010 during night hours, in the S4 Room of the Women Hostel, SMK Fomra Institute of Technology, Senganmal, Thaiyur, within the limits of Kelambakkam Police Station, by hanging herself, and that thereby the accused has committed the offence punishable u/s 306 IPC."

[extracted verbatim]

4. The Inspector of Police has filed a counter, wherein, in paragraph No.3, it is stated as follows:

"3. ... All the above witnesses have stated about the facts of the case i.e., the Chairman warned and used filthy languages as against the deceased - Anithra Pachisia after seen the conversation between one Lalithkumar, her lover, through Web Camera which was fixed in the class room and due to the same, the said deceased - Anithra Pachisia committed suicide and they also corroborated the same version of the complainant."

[extracted verbatim]

5. From the above, it is evident that the deceased who is aged about 19 years was a hostelite. During class hours, she was found to be talking to one Lalit Kumar through web camera which was fixed in the class room. When this matter was brought to the notice of

the Chairman of the College, he called her to his chamber, but she did not turn up. Therefore, A2 went to the hostel and angrily questioned the girl as to why she did not meet the Chairman. Thereafter, the deceased girl went to meet the Chairman and returned to her room. According to the prosecution, the Chairman of the Institute had scolded her and unable to withstand that, she committed suicide.

6. The college authorities are in the position of loco parentis vis-a-vis the student under their care. In this case, the deceased was an hostelite and the parents of the deceased had left her in the care and custody of the college authorities. We are not living in a western society where, a child who attains the age of majority, is left to chalk out its own life. In our country, family ties are so strong that parents take care of their children until they are married off. We cannot expect the Indian State, with its scant resources, to maintain every citizen in this country. Thus, the institution of family provides maintenance and protection to a very large extent.

7. Educational institution is an extended family. It may be apposite to quote that words of Veerasamy J in Natesan Vs State of Madras AIR 1962 MADRAS 216, "It can therefore be assumed that when a parent entrusted a child to a Teacher, he on his behalf impliedly consents for the Teacher to exercise over the pupil such authority." College authorities step into the shoes of parents and therefore, if they find any deviant behaviour in a student, it is their duty to interpose for setting things right. In that capacity, the Chairman of the college had acted by calling the deceased to his chamber and upbraiding her. Since she was a sensitive girl, she resented the admonishment and committed suicide. Section 107 of IPC states as follows:

"107. Abetment of a thing -

A person abets the doing of a thing, who -

First - Instigates any person to do that thing; or

Secondly - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly - Intentionally aids, by any act or illegal omission, the doing of that thing."

8. There is no material whatsoever in the Final Report and the accompanying documents to show that the accused had done any of the acts adumbrated under Section 107 IPC so as to be charged for the abetment of suicide. The Hon'ble Supreme Court in 2004 AIR SCW 5832 Randhir Singh and Another Vs State of Punjab has said "abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a

thing it required before a person can be said to be abetting the commission of offence under Section 306 of IPC.”

9. In view of the above, the proceedings against the petitioners is an abuse of process of law and therefore, this petition is allowed and the Final Report in SC.No.66 of 2011 on the file of the learned Principal District and Sessions Judge, Chengalpattu is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Principal District and Sessions Judge,
Chengalpattu.

2.The Inspector of Police,
E-8, Kelambakkam Police Station,
Kancheepuram District.

3.The Public Prosecutor,
High Court, Madras.

CRL.OP.No.32862 of 2013

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