

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Cr1.O.P. No. 13328 of 2013
and
M.P.No.1 of 2013

1.V.M.Mathew

1.2.P.Mani ... Petitioners/Accused
vs.

1. The State rep.by its
Inspector of Police,
G-1, Vepperi Police Station,
Vepperi, Chennai - 7.
(Crime No.716 of 2011)

2. Vanitha ... Respondents/Respondents
(second respondent impleaded as per
the order of this Court dated 18.07.2013
in M.P.No.3 of 2013)

PRAYER : Criminal Original Petition filed under Section 482 of the
Code of Criminal Procedure praying to call for the records in
S.C.No.246 of 2013 on the file of the III Additional Judge, City
Civil Court, Chennai.

For Petitioner : Mr. I.Paul Noble Deva Kumar

For 1st Respondent : Mr. M. Maharaja,
Additional Public Prosecutor

ORDER

The petitioners are arrayed as accused in S.C.No.246 of 2013 on
the file of the third Additional Judge, City Civil Court, Chennai.
They are charged for the offence under section 306 IPC.

2. It is submitted by the learned counsel for the petitioners

that one Ramesh, who was working as Kalasi in Arakkaonam Division, Southern Railway, was transferred to Headquarters at Chennai and he was employed under the petitioners and according to the said Ramesh (since deceased), the officers for their own benefit, asked him to do work which was not liked by him and he spent his own money to satisfy them and to fulfill their wishes, and the second petitioner gave his Laptop for repair and the repair cost came to Rs.22,000/- and the second petitioner gave Rs.10,000/- only and asked the deceased to pay from his pocket the balance amount and they also threatened him to get back the Laptop after paying the balance amount, failing which, he would be dismissed from service and he was also sent back to Arakkonam Division and in Arakkonam Division, he worked for one day and thereafter, he took leave and he did not come to office for more than two months and later, on 29.6.2011, he committed suicide leaving a note that the petitioners were responsible for his suicide and on that basis, initially, the case was registered under section 173 Cr.P.C. and after investigation, the petitioners were charged for the offence under section 306 IPC.

3. The learned counsel for the petitioners submitted that even according to the statement of witnesses, no charge can be levelled against the petitioners, having regard to the judgment of the Hon'ble Supreme Court reported in (2010) 8 Supreme Court Cases 628 in the matter of Madan Mohan Singh Versus State of Gujarat and another. He submitted that even according to the prosecution witnesses, the deceased Ramesh was transferred from Chennai Division to Arakkonam Division and two months later, he committed suicide. Therefore, the alleged misbehaviour of the petitioners cannot be said to have led to commit suicide and without appreciating the same, the petitioners were charged for offence under section 306 IPC. He also submitted that the prosecution has not examined any superior officers about the reason for transfer of the deceased and one Madhu was examined during investigation and also he did not support the prosecution and as per the counter affidavit filed by the first respondent, the said Madhu who was employed in the Railways stated during investigation that the deceased was not tortured by the officers and he never complained of the torture given by the officials and the deceased was transferred to Arakkonam Division only in view of the audit objection and the officers only reprimanded him for his mistakes committed during service and therefore, it cannot be stated that the petitioners were responsible for the suicide committed by the deceased nor the petitioners abetted the deceased to commit suicide. He also submitted that the suicidal note cannot be taken into consideration to charge the petitioners in view of the judgment of the Hon'ble Supreme Court reported in (2010) 8 Supreme Court Cases 628 supra.

4. Mr. M.Maharaja, learned Additional Public Prosecutor for the first respondent submitted that the case was charged against the petitioners only on the basis of suicidal note and having regard to the conduct of the petitioners in torturing the deceased while he was employed under them and having regard to the fact that the second petitioner asked the deceased to pay Rs.12,000/- from his pocket and get back the Laptop repaired and all these acts led to the suicide of the deceased and therefore, charge sheet was laid against the petitioners for the offence under section 306 IPC.

5. I am unable to accept the contention of the learned Additional Public Prosecutor for the first respondent. It is seen from the statement of witnesses, namely, Vanitha, widow of Ramesh, Dhanasekaran - brother of the deceased, Kavitha - sister of the deceased, Narayanan - friend of the deceased, they have not spoken anything about the torture given by the petitioners to the deceased. Admittedly, none of the witnesses was eye-witness to the torture alleged to have been given to the deceased and the wife gave statement during investigation stating that the deceased told her that the petitioners tortured her husband and the second petitioner asked him to get the Laptop repaired by paying Rs.10,000/- from his pocket and by reason of that, the deceased became dejected and he committed suicide. As submitted the learned Additional Public Prosecutor, there is a suicidal note wherein the deceased had made allegations against the petitioners stating that he was tortured by them and that was the basis for the prosecution to file the charge sheet against the petitioners. Admittedly, the deceased died two months later after he was transferred to Arakkonam Division. Therefore, at the time of death, he was not under the control of the petitioners. Further, in the suicidal note, it is stated that he expected some help from the petitioners but they had not helped him and he also expected some help from Sathyanarayanan, who was responsible for his job and transferred to Madras Division, and he also did not help the deceased. In these circumstances, the deceased appeared to have committed suicide due to depression. Therefore, the petitioners cannot be held responsible for the suicide committed by the deceased and the petitioners have not done anything which prompted the deceased to commit suicide.

6. In the judgment reported in (2010) 8 Supreme Court Cases 628 supra, the Hon'ble Supreme Court held that a person cannot be charged on the basis of a suicidal note. In this case also, there is nothing found in the suicidal note to suggest that the petitioners abetted the suicide of the deceased. I do not find any material to proceed with the case against the petitioners.

7. In the result, the petition is allowed and the case in S.C.No.246 of 2013 on the file of the third Additional Judge, City Civil Court, is quashed. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

asvm

To

1. The III Additional Judge,
City Civil Court, Chennai.
2. Inspector of Police,
G-1, Vepperi Police Station,
Vepperi, Chennai - 7.
(Crime No.716 of 2011)
3. The Public Prosecutor,
High Court, Madras.

+3cc's to Mr.I.Paul Boble Deva Kumar, Advocate, S.R.No.17719

CRL.O.P. No.13328 of 2013
and
M.P.No.1 of 2013

BR(CO)
CA(31/03/2015)

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