

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.12350 of 2016

1.Senthil Kumar
2.Durai Raj
3.Thenmozhi

..Petitioners

Vs

1.The Inspector of Police
H-5, New Washermenpet Police Station
Chennai
Crime No.1118/2013

2.Duraikannu

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Cr.No.1118/2013 on the file of 1st respondent and quash the same.

For Petitioners	:	Mr.K.Thenrajan
For R1	:	Mr.C.Emalias
		Addl.Public Prosecutor
For R2	:	Mr.E.Viswanathan

O R D E R

This petition has been filed to call for the records in Cr.No.1118/2013 on the file of 1st respondent and quash the same.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. Senthil Kumar got married to Radhika on 18.12.2001 and they have two children through the wedlock. While so, on account of domestic quarrel, Radhika committed suicide on 09.09.2013 by hanging in her matrimonial home. On the complaint lodged by DuraiKannu, the father of Radhika, the respondent police registered a case in Cr.No.1118/2013 on 10.09.2013 u/s 306 IPC and proceeded with the investigation. The accused were arrested and released on bail. During investigation, the body was sent for post-mortem and the Post-mortem Report clearly shows that the deceased has died of asphyxia due to hanging. Thereafter, the police have examined

several witnesses to merely show that Senthil Kumar and his family members had frequent quarrel with the deceased. Apart from that, there is no other allegation in the statements of the witnesses that have been recorded by the police. While so, it appears that the accused and the de facto complainant, namely Radhika's father have arrived at a compromise, under which the children are now with the accused. The de facto complainant Duraikannu is present before this Court and he has filed an affidavit, wherein he has stated as follows:

"2. I submit that it was informed to me that on 09.09.2013 due to some domestic quarrel with the 1st petitioner she had committed suicide by hanging. Based on my complaint the 1st respondent registered a case in Cr.No.1118/2013 for the offences u/s 306 IPC in the above case the petitioners are arrested and later released on bail.

3. I submit that out of my personal animosity with the petitioners, I had given the above complaint against them. Later I realised my mistake and thereby before elders of both the family members and I and the petitioners herein were entered into a compromise.

4. I submit that as per the compromise I agreed and express my readiness to settle the dispute and also willing to withdraw the case in Cr.No.1118/2013 on the file of the 1st respondent. The petitioners are now taking care of the children by providing proper education to them. I realized my fault and the above case was a hurdle standing in between our cordial relationship.

5. I submit that likewise I am filing this affidavit to withdraw the case in Cr.No.1118/2013 for the offence under Section 306 IPC on the file of the 1st respondent. I will be greatly prejudiced if the above case in Cr.No.1118/2013 on the file of the 1st respondent is not quashed."

4. Mr.Emalias, learned Additional Public Prosecutor submitted that the investigation is still in progress and it is too premature to quash the FIR.

5. An FIR u/s 306 IPC cannot be quashed merely on the ground that the parties have arrived at a compromise. This Court should be satisfied whether the death of Radhika was suicide or homicide and therefore, this Court called for the case diary and perused the same. The investigation done from 2013 to 2016 unmistakably shows that the death of Radhika was on account of suicide by hanging. There are no materials for

this Court to infer that the death of Radhika was homicidal.

6. The next line of enquiry is to see whether there are materials to show that the petitioners herein had abetted the suicide of Radhika. For attracting the provisions of Section 306 IPC, there should be materials collected by the police to satisfy the ingredients of Section 107 IPC. On a reading of the case diary and the statements recorded by the police, there is no iota of material to show that the accused herein have done any of the acts contemplated by Section 107 IPC.

In the result, this Court is of the view that it is a fit case to quash the FIR in Cr.No.1118/2013. Accordingly, this petition is allowed and the FIR in Cr.No.1118/2013 is quashed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
H-5, New Washermenpet Police Station
Chennai.

2.The Public Prosecutor,High Court, Madras.

1 cc to Mr.K.Thenrajan, Advocate, sr.36765

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