

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Crl.O.P No.8902 of 2010

and M.P.No.1 of 2010

Mohan Raj ... Petitioner/Accused No.5
Vs.

State Rep. by
Inspector of Police,
F2 Police Station,
Egmore, Chennai - 8. ... Respondent/Complainant

Prayer : - Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the further proceedings against the petitioner / accused 5 in the above P.R.C.No.183 of 2009 pending on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner : Mr.K.N.Nataraja for
M.N. Panchaksharamoorthy

For Respondents : Mr.B.Ramesh Babu
Govt. Advocate (Crl. side)

ORDER

This Criminal Original Petition has been filed by the petitioner / 5th Accused praying to call for the records in PRC No.183 of 2009 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai and quash the same.

2. It is averred in the petition that the FIR initially registered under Section 174 Cr.P.C was altered to 306 IPC mainly based upon the suicide notes found in the possession of the deceased person who committed suicide. The petitioner / 5th accused was also added along with four other accused in the case. The deceased was alleged to have been subjected to mental torture by the four accused persons to repay the loan obtained from them. The deceased sought help from the petitioner / Accused No.5 to procure loan from the Bank so as to save himself from the agony of high pressure exerted on him by the four

accused. 161 statements of witnesses and the suicide notes disclose only that the petitioner / accused No.5 failed to obtain Bank loan for the deceased, who was desperate to discharge his monetary liabilities towards his creditors. Therefore, the alleged offence as against the petitioner / A5 was not made out.

3. There is no material to satisfy the ingredient of abetment as provided under Section 107 IPC. The petitioner was not shown to have facilitated any act amounting to instigation leading to abetment of suicide. The deceased had great hopes in the petitioner / A5 for securing loan from the Banks and when the petitioner told that he was not able to secure the loan in spite of his persistent efforts with the Bank officials, the deceased felt himself to be left abandoned at the mercy of the creditors and therefore, he put an end to his life. There is absolutely no criminal liability on the part of the petitioner and therefore, proceedings as against the petitioners are to be quashed.

4. The learned counsel appearing for the petitioner contends that as per the materials filed along with the charge sheet including the 161 statements of the witnesses and suicide notes, no ingredient of Section 107 IPC has been attracted and therefore, the proceedings as against the petitioner are to be quashed.

5. This Court perused the entire statements of witnesses and 161 statements recorded by the Investigating Officer and the suicide notes recovered from the body of the deceased. As per the statements of witnesses and suicide notes, it is stated that the deceased was put under pressure to settle the amount to the four accused from whom he got the loan for his business and he was not even allowed to go out. As far as the petitioner / A5 is concerned, the deceased sought his help to get loan from the Banks so as to clear all the debts he obtained from the other accused and he made payment (Rs.40,000/-) for such help to the petitioner. The petitioner after trying with the banks finally told the deceased that he could not get the loan by him for the deceased.

6. The petitioner / A5 along with other accused has been charge sheeted for the offence under Section 306 IPC. As per this Section, the person who abets the commission of suicide is punishable.

7. Section 107 IPC defines abetment as comprising (i) Instigation to commit the offence (ii) engaging in conspiracy to commit the offence; and (iii) aiding the commission of an offence.

8. In cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. It is also to be noted that the evidence is to be assessed in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative to put an end to his life.

9. In the suicide note, it has been specifically stated that the deceased believed the words of the petitioner / A5 in spite of the advice of his wife not to believe the petitioner / A5. There is also material that the deceased paid a huge amount to the petitioner to obtain loan from the Bank. Therefore, as already pointed out only by assessing the evidence let in in the case, the decision as to whether cruelty and harassment meted out to the victim had left him with no alternative to put an end to his life can be decided.

10. Therefore, this is not a fit case to invoke the jurisdiction of this Court under Section 482 Cr.P.C at this stage and hence, this Criminal Original Petition is liable to be dismissed.

In fine this Criminal Original Petition is dismissed. The Metropolitan Magistrate is directed to commit the case to the Court of Sessions within one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

tsvn

To

1 The XIV Metropolitan Magistrate,
Egmore, Chennai

2. The Inspector of Police,
F2 Police Station,
Egmore, Chennai - 8.

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3. The Public Prosecutor,
High Court of Madras, Chennai.

4 do thro the Chief Metropolitan Magistrate,
Chennai

jm(CO)
md(28/12/2016)

Cr1.O.P No.8902 of 2010



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