

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.3628 of 2016

P.Selvi

.. Petitioner

vs.

1.The Superintendent of Police
District Police Office
Nagapattinam.

2.The Inspector of Police
Thalainayar Police Station
Nagapattinam District.

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. directing the 2nd respondent to alter the offence under Section 306 IPC in Cr.No.278 of 2015 on the file of the 2nd respondent and to file final report within stipulated time.

For Petitioner : Mr.S.Arivazhagan
For Respondents : Mr.C.Emalias, APP

O R D E R

This petition has been filed seeking a direction to the 2nd respondent to alter the offence under Section 306 IPC in Cr.No.278 of 2015 on the file of the 2nd respondent and to file final report within stipulated time.

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

3. Pursuant to suicide committed by one Pugazhendhi, the respondent police registered a case in Cr.No.278 of 2015 on 10.10.2015 u/s 174 Cr.P.C. After completing the investigation, the respondent police have filed "Action dropped" report before the Tahsildar, Thirukuvalai, Nagapattinam District on 30.12.2015. The petitioner herein is the wife of the said Pugazhendhi and it is alleged by her that, Pugazhendhi's maternal uncle Mr.Ramachandran from whom Pugazhendhi had borrowed money, was responsible for the suicide of Pugazhendhi and therefore, the FIR should be altered to one u/s 306 IPC.

4. In the considered opinion of this Court, in every case of suicide, it is natural for the family of the deceased to make allegations against someone or the other and make him responsible for the death. However, Courts must be very careful in this regard because, for sustaining a charge u/s 306 IPC, the accused should have committed one or the other acts mentioned in Section 107 IPC. In this case, the respondent police have filed a closure report and the same is now with the Tahsildar, Thirukkuvalai, Nagapattinam District. This Court is of the view that an opportunity should be given to the petitioner to file a protest application as laid down by the Supreme Court in Vinay Tyagi Vs Irshad Ali [2013 (5) SCC 762].

5. Under such circumstances, this Court directs the Tahsildar, Thirukkuvalai, Nagapattinam District, to transfer the entire case file to the jurisdictional Magistrate within four weeks from the date of receipt of a copy of this order, after taking photo copies of the same and keeping them in the file of the Taluk Office. Liberty is given to the petitioner to file the protest application before the jurisdictional Magistrate and on such application being filed, the same shall be considered in the light of the law laid down by the Supreme Court in Vinay Thyagi's case.

With the above direction, this Criminal Original Petition is disposed of.
gms

-s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The Superintendent of Police
District Police Office, Nagapattinam.

2.The Inspector of Police
Thalainayar Police Station
Nagapattinam District.

3.The Tahsildar,
Thirukuvalai, Nagapattinam District.

4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.S.Arivazhagan, Advocate SR 29466

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