

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :14.09.2017

PRONOUNCED ON :24.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.OP No.19645 of 2012

Murugesan

Petitioner/Accused

Vs

State represented by
Inspector of Police,
Thiruchengode Town,
Namakkal District and others
(Crime No.257 of 2008)

Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in P.R.C.No.27 of 2012 on the file of Judicial Magistrate, Thiruchengode and quash the same as illegal.

For Petitioner

:Mr.R.Sankarasubbu

For R1

:Mr.C.Iyyapparaj
Addl.Public Prosecutor

For defacto-complainant
(By order dated 17.12.2012,
this Court ordered notice to
defacto-complainant)

: Mr.N.Manokaran

ORDER

This Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.27 of 2012 on the file of Judicial Magistrate, Thiruchengode and quash the same as illegal.

2. The learned counsel for the respondent/Inspector of Police filed a Final Report in Crime No.550 of 2010 before the Judicial Magistrate, Tiruchengode alleging that the petitioner who is a husband of the deceased and the petitioner and the deceased were living together happily and on 21.03.2008, the deceased Satya committed suicide and on enquiry the entire family of deceased father, mother and brother unanimously deposed that due to unbearable ill health, she committed suicide on 21.03.2008 and after 3 years during 2011, they turned around stated that Investigation Officer that due to harassment, the deceased committed suicide.

3. The learned counsel for the petitioner has submitted that the petitioner/accused married deceased Satya about 3 years prior on 21.03.2008. They lived together and begotten a male child and out of the poverty and unable to bear the suffering of stomach-ache, the said Satya committed suicide by hanging with a saree in a ceiling fan on 21.03.2008 and R.D.O has conducted an enquiry. After recording the statement of the various persons he had came to the conclusion that there is no element of demand of dowry and thereafter, the matter has not seen the light of the day. However, after passage of several months, the first respondent/Inspector of Police without properly investigating the matter have laid the Charge Sheet, alleging offence under Sections 498(A) and 306 I.P.C.

4. According to the learned counsel for the petitioner, there are two sets of averment are available before the Court. One set of statement of witnesses before the R.D.O and another set of statement of witnesses said to have been given to the Investigation Officer which are running contrary to each other and only after 3 long years, the final report has been filed by the respondent police and the investigation is lacks fairness in criminal prosecution and seeks quashment.

5. Pending criminal original petition in this Court, the Velumani, father of the deceased Satya was impleaded as a second respondent.

6. The learned counsel for the second respondent would content that, this scope of the Inquest Report conducted by the revenue witness R.D.O and the scope of the investigation by the Law Enforcement Authority are different in nature and the points alleged/contended on behalf of the petitioner are matter for trial and strongly opposed for the quashment of the case.

WEB COPY

7. The learned Public Prosecutor appearing for the first respondent could contend that based upon the complaint received from the Velumani, father of the deceased Satya that an F.I.R was registered in Crime No.257 of 2008 and after investigation, final report has been filed under Section 498(A) and 306 I.P.C.

8. 3 years prior to the date of the offence and the case was taken as P.R.C.No.27 of 2012 by the Judicial Magistrate, Tiruchengode and on committal, it was taken as S.C.No.102 of 2012 and made over to the Mahila Court (FTC, Namakkal) and witness P.W.1 to P.W.4 were already examined and Exhibits.P1 to Ex.P7 were marked and matter stands posted for further prosecution to witnesses.

9. After hearing all the parties and perused the records.

10. It appears that based upon the complaint given by the father of the deceased satya, the case was registered and after investigation final report has been filed and the same is taken on file as P.R.C.No.17 of 2012, Judicial Magistrate, Tiruchengode and numbered as S.C.No.102 of 2012 made over to the Mahila court after completing the formalities, the trial seems to have been commenced and private prosecution witnesses P.W.1 to P.W.4 were already examined and Ex.P1 to P.7 said to be marked and matter stand as posted for further private prosecution witnesses.

11. On the above factual background as to the stage of the proceedings, the main contention of the counsel for the petitioner is that there is a material contradiction between the two sets of statement of witnesses. One that was given before the R.D.O and another that was alleged

to have been given to the Investigation Officer and according to the petitioner, there is a delay of 3 years in filing the Investigation Report and delay is fatal to the prosecution and further stated that the petitioner is innocent.

12. On going through the statement of witnesses given before the R.D.O, it has been filed by a separate typed set and also filed the Final Report along with the statement of witnesses that is said to have been recorded by the Police during the course of investigation. As stated supra, the point raised in the petitions are pertinent to appreciation of evidence and that it can be raised only before the trial Court.

13. In exercise of powers under Section 482, with regard to the points raised in the quashment proceedings being pertinent to appreciation of evidence, it can be gone into only at the stage of the trial and the witnesses are necessarily to be confronted with the alleged contradiction as pointed out by the learned counsel for the petitioner and in the decision reported in (2007)2 MLJ (CrI) 1645 (A.Govindarajan and others V.Inspector General of Police, W5, all Women Police station, Chennai) it was held that:

"The High Court cannot exercise the power under Section 482 of Code of Criminal Procedure, 1973 (2 of 1974) to quash the proceedings at the trial stage, when the points raised for quashing the proceedings pertains to appreciation of evidence. They can be raised only before the trial Court".

14. Considering the points that are raised by the learned counsel for the petitioner are pertaining to appreciation of evidence by the trial Court and the same has to be dealt with by the trial Court. During the time of the trial and also taking note of the fact, the trial has commenced and private prosecution witness are already been examined and necessary exhibits are marked, this Court is of the considered view that at this stage the proceeding has to be go on and come to his logical, one way or other and hence, I am not inclined to interfere with the proceedings which is half way through, the question whether there was suppression and whether the evidence establishes the alleged offence are matters to be considered by the trial Court after appraisal entire evidence adduced by the trial Court.

15. In this view of the matter, I am not inclined to interfere with and petition is devoid of merits and liable to be dismissed.

16. In the result, this Criminal Original Petition is dismissed and the Judicial Magistrate, Thiruchengode is hereby directed to complete the trial at the earliest.

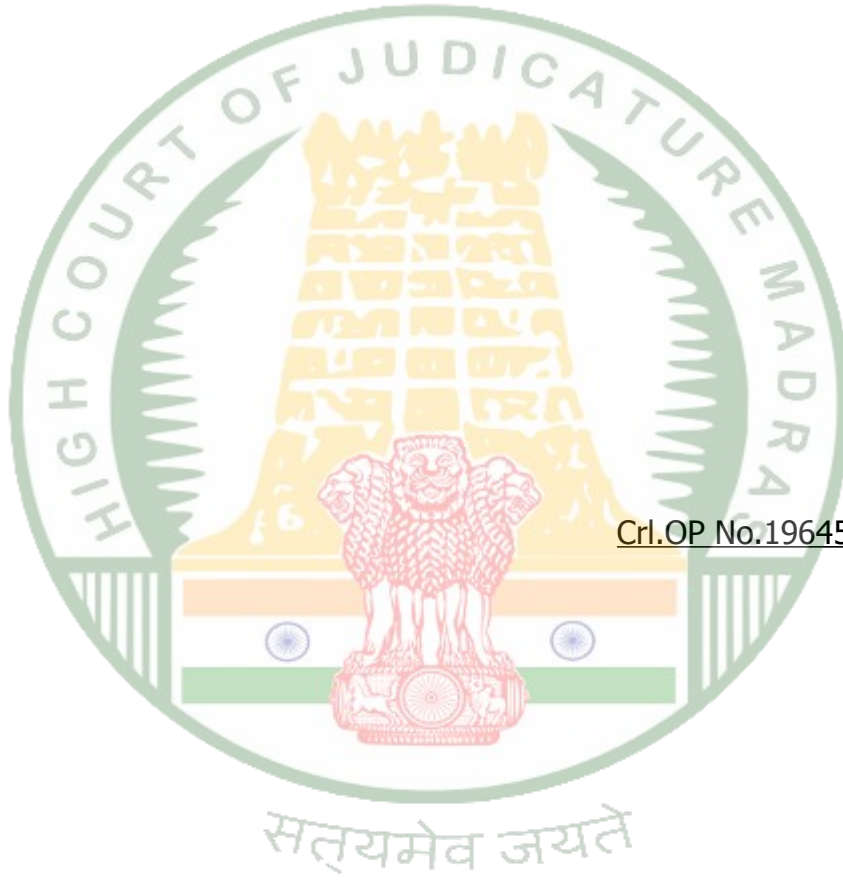
24.11.2017

nvi

To

- 1.The Judicial Magistrate, Thiruchengode
- 2.The Public Prosecutor, High Court, Madras.

RMT.TEEKAA RAMAN,J.,
nvi



Order in
Crl.OP No.19645 of 2012

WEB COPY

24.11.2017