



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2017

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.O.P. (MD) No.14692 of 2017
and
CrI.M.P. (MD) No.9787 of 2017

1. M.Siva
2. M.Kanakamani
3. P.Vanitha
4. J.Vasanthi
5. J.Amutha
6. J.Jeyamurugan @ Murugan ... Petitioners /
Accused Nos. 1 to 6

Vs.

1. State rep. by,
The Inspector of Police,
Rayapanpatti Police Station,
Theni District. ... Respondent/Complainant

2.S.Chinnan ... Respondents / Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.222 of 2017 on the file of Respondent police and quash the same.

For Petitioners : Mr.Niranjan.S.Kumar

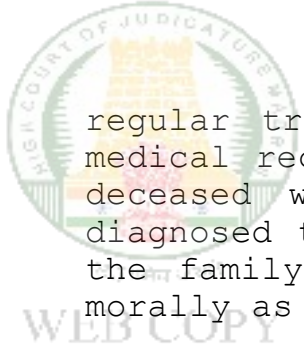
For R1 : Mr.K.Anbarasan
Government Advocate (Criminal side)

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.222 of 2017 on the file of respondent police.

2.The facts leading to file the Criminal Original Petition is as follows:

The marriage between the first petitioner and the deceased was solemnized on 22.08.2012 as per Hindu Rites and Customs. The petitioners 2 to 6 are in-laws of the deceased. After their marriage, they have started their matrimonial life in a happy and peaceful manner. However, after five years of their marriage, they had no issue. Hence, they approached a gynecologist and taking



regular treatment. According to the first petitioner, as per the medical records, it was found that due to some health problem, the deceased was not able to give birth to a child. It was also diagnosed that it is a curable defect and hence the petitioner and the family members of the petitioner supported the deceased both morally as well as financially.

2.1) While such being the position, according to the petitioner, when the relatives started questioning the deceased regarding child issue, due to mental agony and stress, the deceased committed suicide on 20.06.2017 at about 12' 0' Clock in the afternoon. Thereafter, the RDO enquiry was initiated at the instance of the family members of the deceased and the RDO conducted the enquiry and sent a report. After receipt of the enquiry report, the law enforcing agency, namely, the first respondent herein initially registered the FIR under Section 174(3) of Cr.P.C., thereafter altered into Section 306 of Cr.P.C., against which the present Criminal Original Petition filed before this Court.

3. The learned counsel for the petitioners would contend that after receiving the report from the RDO in which it was clearly stated that there was no demand of dowry and only due to the gynaecological problem, the deceased committed suicide, the law enforcing agency registered the FIR against the first petitioner and his family members which shows that it is a clear case of abuse of process of law. He further contended that in the absence of any materials to prove that the death of the deceased was instigated by the accused and hence, implicating the first petitioner and his family members is unsustainable in law. The learned counsel further contended that in order to attract the provisions of Section 306 of IPC (Abetment of suicide), there must be an allegation that the accused had instigated the deceased to commit suicide. Accordingly, he prayed for quashing the FIR filed by the first respondent.

4. Per contra, the learned Government Advocate (Crl.side) appearing for the State would submit that there are some materials available for implicating the first respondent and his family members in this case. When some materials are available as against the petitioners, this Court cannot decide the case by exercising power under Section 482 Cr.P.C., and moreover, FIR is only the first information received from the complainant. He further submitted that the investigation is at initial stage, ultimately the law enforcing agency should conduct a detailed investigation and thereafter, charge sheet shall be filed before the competent Court of law and the petitioners also have every opportunity to establish their innocence before the Court concerned. Hence, he prays to dismiss the petitioner. Further, in support of his argument, the learned Government Advocate (Crl. side) relied upon the decisions of the Hon'ble Supreme Court as follows:

(1) In *State of Haryana and Others vs. Bhajanlal and others* reported in 1992 Supp(1) SCC 335 wherein in paragraph Nos.102 and 103 has held as follows:



"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceedings against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceedings is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for



wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

(2) In *R.P.Kapur Vs. State of Punjab*, reported in AIR 1960 SC 866, wherein the Hon'ble Apex Court had summarised some of the categories of cases where the inherent power under Section 482 of the Code could be exercised by the High Court to quash criminal proceedings against the accused. These are: [AIR P.869, Para 6]

(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings e.g. want of sanction;

(ii) where the allegations in the first information report or the complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge."

5. I have heard the learned counsel appearing for the petitioners and learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. On perusal of the judgment cited supra, this Court is of the view that before the completion of the procedure with regard to filing charge sheet, filing this petition invoking Section 482 Cr.P.C., for quashing the FIR at the initial stage is unsustainable in law. Further, considering the facts and circumstances and arguments on both side, this Court feels that there is some force in the contention made by the learned Government Advocate (Crl. side) appearing for the State and when there is controverted allegations involved in this case and at the same time, there is some materials available before the law enforcing agency and the learned Government Advocate (Crl. side) on instructions would submit that the law need some time to complete the investigation and to file final report. Therefore, in this case, interfering at the stage of FIR is unsustainable. Hence, this Court is not inclined to



interfere at this stage. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-
Assistant Registrar((CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Inspector of Police,
Rayapanpatti Police Station,
Theni District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.Niranjan S.Kumar, Advocate, SR.No.85374

PJL
RL/4C/5P/JC/SAR3/24/11/2017

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