

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.07.2018
Pronounced on : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8936 of 2011
and
M.P.No.1 of 2011

1.Sumathy,
W/o.Saravana Pandian.

2.Vellaichi,
W/o.Kanthappa Devar.

3.Karuppan @ Karuppasamy,
S/o.Durai Pandian.

... Petitioners/Accused Nos.1 to 3

/Vs./

1.State by,
The Inspector of Police,
Wellington Circle,
[Cr.No.240 of 2008],
Nilgiris District. ... Respondent/Complainant

2.V.Chinna Pandian,
S/o.Velusamy. ... Respondent/Defacto-Complainant

[R2 is impleaded as per the order
of this Court dated 07.09.2017
made in Crl.M.P.No.11278 of 2017
in Crl.O.P.No.8936 of 2011]

PRAYER: Criminal Original Petition is filed under Section 482
of the Code of Criminal Procedure, to call for the records in
S.C.No.27 of 2010 on the file of the Sessions Court,
Udhagamandalam and quash the proceedings in S.C.No.27 of 2010
as an abuse of process of Court.

For Petitioners: Ms.Jayasri Baskar

For R1 : Ms.V.Saratha Devi,
Government Advocate [Crl.Side]

For R2 : No appearance [Name printed]

* * * * *

O R D E R

The petitioners, who are accused Nos.1 to 3 in SC No.27 of 2010 pending on the file of the Sessions Court, Nilgiris District for the offences under Sections 306 and 506(i) of the Indian Penal Code has filed the above petition.

2.The 1st respondent is the Inspector of Police, who had filed the charge sheet and the 2nd respondent is the defacto complainant, brother of the deceased Saravana Pandian. The 1st petitioner is the wife of the deceased Saravana Pandian, 2nd petitioner is the mother of the 1st petitioner and the 3rd petitioner is the maternal uncle of the 1st petitioner.

3.The 1st petitioner had married one Saravana Pandian on 27.03.2006 at Coonoor. After the marriage, the 1st petitioner was living with the said Saravana Pandian and his parents as joint family. Within 4 months after the marriage, the 1st petitioner insisted for a separate residence, which the said Saravana Pandian was not willing to, since his mother had undergone an operation and his financial status did not permit for the same. Not convinced with the same, the 1st petitioner went to her mother's place at Tirunelveli.

4.After settlement talks the 1st petitioner returned back to the matrimonial home. She had given a complaint against the Saravana Pandian and his parents for demand of dowry and harassment and during the enquiry a compromise was arrived at. Thereafter, she lived with the Saravana Pandian for four months and thereafter, again she left to her parents house. In the meanwhile, she had come back to the house of Saravana Pandian and took away all her belongings. Thereafter, she gave a complaint to the Sankarankoil All Women Police Station alleging about dowry demand and cruelty against Saravana Pandian, his parents, sisters and brother.

5.The further contention is that the 2nd petitioner i.e. the mother of the 1st petitioner contacted her estranged son-in-law the said Saravana Pandian over phone and threatened him that he should pay a sum of Rs.1,00,000/- (Rupees One lakh only) or otherwise, the case against him and his family members would not be withdrawn, he and his family members would not be allowed to live in peace.

6.The family members of Saravana Pandian had obtained Anticipatory bail on the complaint given by the 1st petitioner to the All Women Police Station, Sankarankoil and as per the condition of the Anticipatory bail they had to attend the Sivagiri Court on 06.11.2008. All the family members except Saravana Pandian had left Wellington to Sivagiri on 09.11.2008. Being alone at Wellington and for the harassment

and ignominy caused to the Saravana Pandian and his family members by the petitioners herein the said Saravana Pandian had committed suicide by hanging himself between the night of 05.11.2008 and morning of 06.11.2008 and leaving a suicide note. The said Saravana Pandian was forced to take this extreme step due to the false case against him and his family members, constant threat and harassment caused by the petitioners herein, which abetted the suicide of the said Saravana Pandian for which the respondent has registered a case in Crime No.240 of 2008 against the petitioners and had filed the charge sheet against them.

7.The contention of the learned counsel for the petitioners is that the prosecution has cited 15 witnesses in the final report and witnesses 1 to 6, 9 and 10 speaks about the cases between the 1st petitioner and the deceased Saravana Pandian. As regards the 2nd petitioner, it is only threatening over telephone, which is spoken by LW7 and LW8 and these witnesses also speak about the suicide note left by the deceased. LW11 was examined to identify the signature of the deceased in the suicide note. LW12 is the Postmortem doctor and the LW13 is the Sub Inspector of Police, who registered the case, LW14 and LW15 are the Investigating Officers.

8.The uniform evidence of the witnesses is that the 2nd petitioner threatened the deceased over phone and demanded money to withdraw the complaint at Sankarankoil failing which the deceased and his family members would be sent to jail and they would not be allowed to live in peace.

9.On taking into consideration of the statement of witnesses no inference of abetment could be drawn. Further, as regards the averments, allegations against the 2nd petitioner, it is only in the nature of hear-say. Even, the suicide note said to have been left by the deceased would not prove the case of the prosecution and nothing found in the suicide note against the 1st petitioner. Further, there is no allegations to attract the ingredients of Section 306 and 506(i) of the Indian Penal Code and prayed to quash the charge sheet.

10.The learned counsel for the petitioners has relied upon the following citations:

- 1) (2010) 8 SCC 628 in the case of MADAN MOHAN SINGH VS. STATE OF GUJARAT AND ANOTHER;
- 2) 2016-1 L.W.(Cr1.) 609 in the case of THIRUPATHY VS. STATE REP.BY INSPECTOR OF POLICE GOBICHETTIPALAYAM;
- 3) 2017-1 L.W.(Cr1.) 864 in the case of GURCHARAN SINGH VS. STATE OF PUNJAB;
- 4) 2005 Cr1.L.J. 4322 in the case of CYRIAC ANAND VS. SUB-INSPECTOR OF POLICE,

KADUTHURUTHY AND ANOTHER;

5) 1988(2) MWN(Crl.)184 in the case of NOBLE MOHANDASS VS. STATE; and

6) 2010-2 L.W.(Crl.) 1434 in the case of R. RAMESH VS. STATE REP.BY INSPECTOR OF POLICE, KANCHIRAPALAYAM.

11.The learned Government Advocate [Crl. Side] appearing for the 1st respondent submitted that the prosecution had examined 15 witnesses and on receipt of the complaint, the police had immediately gone to the scene of occurrence, prepared Mahazars, examined the witnesses, taken the body and sent the body to the Postmortem. The postmortem Doctor confirmed that the death of the deceased would be due to hanging during the time mentioned and on the same day i.e, on 06.11.2008 a suicide note was recovered from the T.shirt pocket of the deceased and the suicide note was seized by a Seizure Mahazar and was sent to the Court immediately along with other documents on the same day. Further, after a detailed and thorough investigation and on examination of the witnesses and recording of the statements and collection of documents, the charge sheet has been filed. The charges were framed against the petitioners and the trial is yet to be commenced. During the pendency of the trial the petitioners have filed the above petition and stalled the Sessions Trial for the past seven years and prayed that the quash petition shall be dismissed.

12.The 2nd respondent defacto complainant though, summons from the Court was served, he had not appeared, his name has been printed in the cause list.

13.The citations submitted by the petitioners are not applicable to the case on hand. Considering the rival submissions and on perusal of the materials, the suicide note found in the pocket of the deceased and the said suicide note has been seized by way of a Seizure Mahazar in the presence of the independent witnesses and the same have been sent to the Court on the same day.

14.Further, the sustained harassment and cruelty at the hands of the petitioners to the deceased and his family members four months after the marriage, which has been continuing throughout till the date of the suicide. It is to be noted that on 05.10.2008 the entire family members of the deceased were at Tirunelveli to appear before the Sivagiri Court to comply with the condition. On a complaint given by the 1st petitioner against them before the Sankarankoil All Women Police Station, which triggered Saravana Pandian to commit suicide. The contention of the petitioners are to be raised only during the trial.

15.In view of the above, this Court dismissed the quash petition of the petitioners and accordingly, this Criminal

Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

ah

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Sessions Judge,
Udhagamandalam.

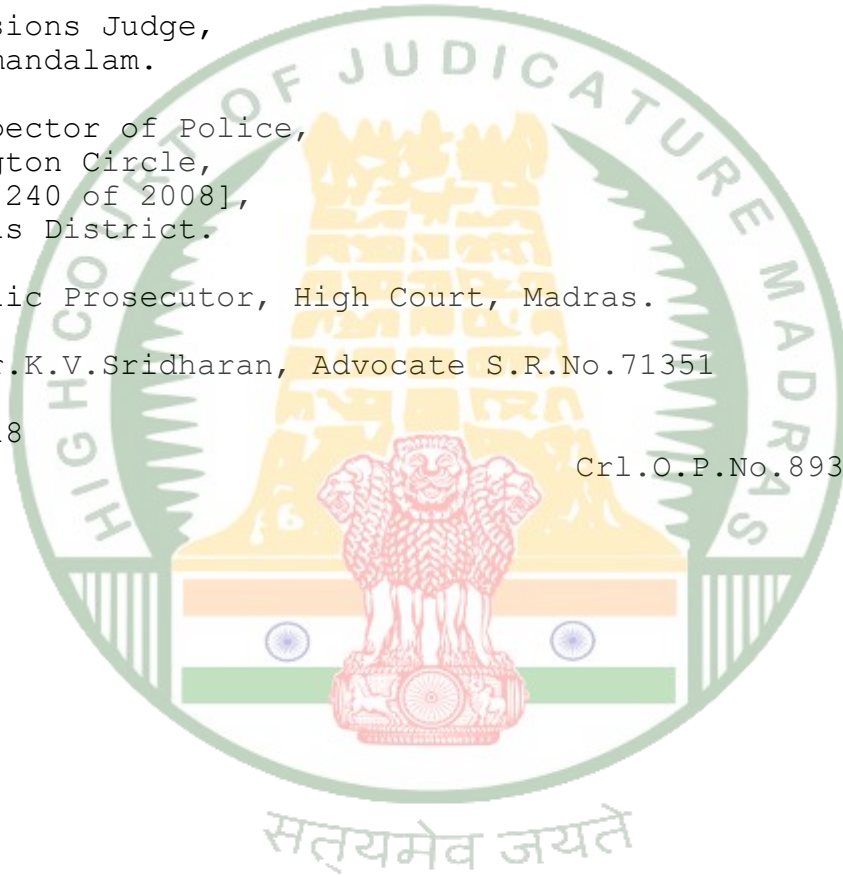
2.The Inspector of Police,
Wellington Circle,
[Cr.No.240 of 2008],
Nilgiris District.

3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.V.Sridharan, Advocate S.R.No.71351

KR/13/11/18

Cr1.O.P.No.8936 of 2011



WEB COPY