

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Cr1.O.P.No.17491 of 2015
and
MP.No.1 of 2015

Sathyapriya

... Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Karamadai Police Station,
Coimbatore.
(Crime No.27 of 2015)

2.N.Mani

... Respondents

PRAYER : This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings dated 31.01.2015 in Crime No.27 of 2015 on the file of 1st respondent herein and quash the same.

For Petitioner : Mr.V.Sivakumar

For R1 : Mr.T.Shunmugarajeswaran,
Government Advocate (Cr1.Side)

For R2 : Mr.U.Gokulakrishnan
For M/s.T.Gowthaman

O R D E R

This Criminal Original Petition has been filed by the accused No.1 to quash the FIR in Crime No.27 of 2015 on the file of the first respondent.

2.The petitioner herein is the wife of the deceased Saravanakumar and she left the Matrimonial Home on 05.01.2015, without informing her husband. Hence, her husband Saravanakumar, has lodged a complaint before the first respondent on 11.01.2015, stating that his wife (petitioner herein) left the Matrimonial Home on 05.01.2015 at about 06:00

P.M., and thereafter, she did not turn up and based on the said complaint, the first respondent herein has registered a case in Crime No.27 of 2015, under the caption "woman missing". Thereafter, the petitioner herein surrendered before the learned Judicial Magistrate, Mettupalayam, on 12.01.2015 by filing a petition in C.M.P.No.160 of 2015, stating that since her husband harassed her, she left the Matrimonial Home and she did not want to go to her husband's house. Based on the said petition, the learned Judicial Magistrate has recorded her sworn statement and in the said sworn statement also she has reiterated the same. The learned Judicial Magistrate after considering the averments made in the petition and also sworn statement of the petitioner herein, passed on order 12.01.2015 stating that since the victim is a major, she has been set at liberty and closed the said petition. Thereafter, on 31.01.2015 at about 8 a.m., the petitioner's husband namely Saravankumar, has committed suicide in his house by hanging himself. On seeing the same, the second respondent herein who is the uncle of the deceased Saravanakumar has lodged a complaint before the first respondent and based on the said complaint, the first respondent has registered a case in Crime no.27 of 2015, under Section 306 IPC against the petitioner herein and one Ganesh kumar.

3.The learned counsel for the petitioner has submitted that in the FIR, it is not stated that the petitioner herein done any act abetting the deceased Saravanakumar to commit suicide. He further submitted that even the allegations made in the FIR are taken as true, the petitioner herein cannot be convicted under Section 306 IPC. He further submitted that the allegations made in the FIR do not constitute the offence under Section 306 IPC. He further submitted that merely because the petitioner has left the Matrimonial Home, it cannot be said that the petitioner has abetted her husband to commit suicide. He further submitted that even as per the FIR, the petitioner has left matrimonial home on 05.01.2015 and her husband has not committed suicide immediately and only after 26 days i.e., on 31.01.2015, he has committed suicide and it is not known, that what was the reason for taking such an extreme decision by the petitioner's husband. He further submitted that in the complaint which was lodged by the deceased dated 11.01.2015, it was not at all stated that the petitioner eloped with one Ganesh Kumar and under the said circumstances, the allegations made in the complaint lodged by the second respondent that the petitioner eloped with one Ganesh Kumar is totally false. Therefore, he prays to quash the FIR against the petitioner herein.

4.The learned Government Advocate who is appearing for the first respondent has submitted that the averments made in the complaint would clearly show that the petitioner herein eloped with one Ganesh Kumar and because of the said incident, the

deceased has committed suicide and therefore, he prayed to dismiss the petition.

5.The learned counsel for the second respondent has submitted that the petitioner herein and the said Ganesh Kumar have jointly filed Anticipatory Bail application by engaging a single counsel and that itself would show that the petitioner herein eloped with the said Ganesh kumar and that was the reason for committing suicide by the petitioner's husband and therefore, he prayed to dismiss the petition.

6.In the FIR, it is stated that the petitioner herein eloped with one Ganesh Kumar on 05.01.2015, and because of the said incident, the deceased mentally got depressed and committed suicide on 31.01.2015 by hanging himself in his house at about 08.00.am Even as per the FIR, the petitioner herein eloped with one Ganesh kumar on 05.01.2015 and after 26 days only the deceased has committed suicide. So it is clear that the deceased had sufficient time to retrieve from the aforesaid incident. Therefore, it cannot be said that he died only because the petitioner ran away from the Matrimonial Home. In between 05.01.2015 and 31.05.2015 so many things would have happened and it is not known that what triggered the deceased to take such an extreme decision to end his life after 26 days.

7. From the averments made in the FIR, it cannot be said that the petitioner herein has done any intentional act which driven the deceased to commit suicide. So, even the allegations made in the FIR are taken as true, at the face value, the petitioner cannot be convicted under Section 306 IPC. Therefore, this Court is inclined to allow this petition.

8. In the result, this Criminal Original Petition is allowed. The FIR in Crime .No.27 of 2015 on the file of the first respondent is quashed, insofar as the petitioner is concerned. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

stm/msrm

To

1.The Inspector of Police,
Karamadai Police Station,
Coimbatore.

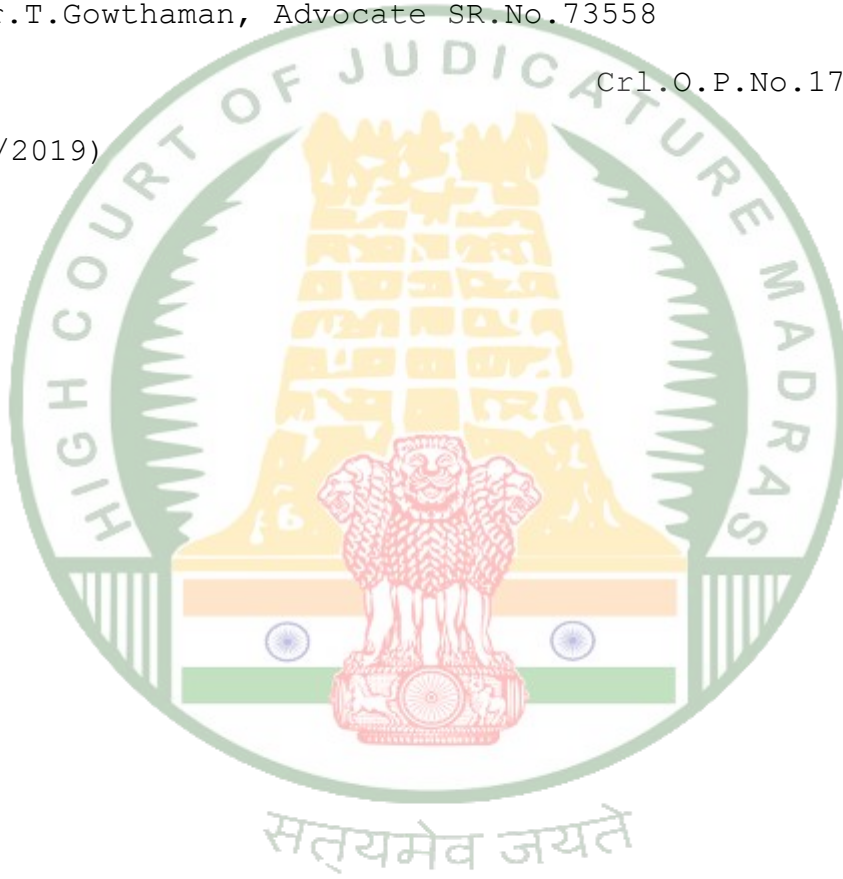
2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Sivakumar, Advocate SR.No.73162

+1cc to Mr.T.Gowthaman, Advocate SR.No.73558

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GMV(06/02/2019)



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