

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CrI.O.P.No.12700 of 2016
and CrI.MP.No.6552 of 2016

E.Padma

... Petitioner/Accused

Vs.

1. State rep.by
The Inspector of Police
Town Police Station,
Krishnagiri. (Crime No.270 of 2016)

2. M.Murugammal ...Respondents/Complainant

Prayer :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the FIR in Crime No.270 of 2016 on the file of the Inspector of Police, Town Police Station, Krishnagiri.

For Petitioner : Mr.S.Arivazhagan

For R1 : Mr.T.Shunmugarajeswaran
Government Advocate

For R2 : No appearance

O R D E R

This petition has been filed by the accused to quash the FIR in Crime No.270 of 2016 on the file of the Inspector of Police, Town Police Station, Krishnagiri.

2. No representation for the second respondent. Hence, a message was posted in the Display Board requesting the counsel for the second respondent to attend this Court and even thereafter the learned counsel for the second respondent has not appeared. Hence, after hearing Mr.S.Arivazhagan, the learned counsel for the petitioner and Mr.T.Shunmugarajeswaran, the learned Government Advocate (Criminal Side) for the first respondent and perusing the materials available on record orders being passed.

3. The brief facts are as follows;-

The second respondent herein has lodged a complaint on 26.03.2016 before the first respondent stating that her daughter Ushavadivu was studying B.Com Second year at Arignar Anna College of Arts and Science, Krishnagiri. One of her classmates by name Sathya eloped with her boy friend. After coming to know the said incident, the petitioner herein who was a class teacher had enquired the said Ushavadivu with regard to whereabouts of the said Sathya. During enquiry, the petitioner herein abused the said Ushavadivu by using un-parliamentary words. Hence, she was frustrated and consumed "All Out" Mosquito oil and subsequently, the said Ushavadivu was admitted in the hospital and after three days, she died in the hospital on 27.03.2016 at about 11.00 a.m.,

4. Based on the aforesaid complaint, the first respondent has registered a case in Crime No.270 of 2016 under Section 174 Cr.P.C. R/w 306 of IPC against the petitioner herein. To quash the said FIR, the petitioner has filed the present petition.

5. The learned counsel for the petitioner has submitted that the allegations made in the complaint do not constitute a prima facie case under Section 306 of IPC. He further submitted that as per the FIR, the petitioner herein, being a teacher, has enquired the deceased about the whereabouts of the class mate by name Sathya. The petitioner herein has not abetted the deceased to commit suicide and hence he prayed to quash the FIR against the petitioner.

6. In support of his contention, he relied upon the following decisions: 1) Mani Vs. rep.by the Inspector of Police, J-3 Guindy Police Station, Chennai 32 (2014) 3 MLJ (Crl) 18;

2) K.Ravikumar Vs. State by Station House Officer, Grand Bazaar Police Station, Pondicherry and another in Criminal OP.no. 22507 of 2006;

3) N.Anjali Devi and another Vs. the Superintendent of Police Villupuram and another in Crl.OP.No.24858 of 2006;

4) U.Srikrishnan Vs. State rep .by Inspector of Police, Ambalamoola Police Station, in Crl.Rc.No.525 of 2007.

7. The learned Government Advocate who is appearing for the first respondent has submitted that the averments made in the complaint clearly show that the petitioner herein has committed an offence under Section 306 of IPC. He further submitted that since the petitioner has obtained interim stay from this Court,

the first respondent is not able to examine the colleagues of the deceased and hence he requests to dismiss the petition, so that the first respondent can complete the investigation and file a final report.

8. In Mani Vs. rep.by the Inspector of Police, J-3 Guindy Police Station, Chennai 32 (supra), this Court has elaborately discussed about the abetment of suicide and after referring to various Judgments, observed in paragraph Nos.43 to 47 as follows:-

''43. If a person makes an ordinary joke or a casual remark in routine course of ordinary life and when the victim commits suicide, that will not attract section 306 I.P.C. The circumstances under which the incriminating words spoken and the type and nature of the victim have also to be considered. Some positive act must have emanated from the accused towards the victim. And should be in the nature of forcing or urging the victim to take the extreme decision. If nothing had came from the accused, the accused cannot be blamed for the extreme decision taken by the victim.

44. Simple abuse are not sufficient to provoke the victim to commit suicide. It will not attract section 306 I.P.C. Simply because the lender has demanded repayment of his money, if the debtor commits suicide the creditor cannot be said to have abetted his committing suicide. Section 306 I.P.C is not attracted towards him.

45. Mere reprimanding does not amount instigation. The words stated in a fit of anger will not amount to abetment. Casual remark of husband towards his wife in the ordinary course of life will not amount to abetment to commit suicide. Because they did not say so with any mens rea. (sec Swamy Prahaladas v.State of Madhya Pradesh (1995) Suppl. (3) SCC 438).

46. In Naresh Marotrao v. Union of India 1995 Cr1.L.J. (Bom): LNIND 1994 Bom 465 the deceased poured kerosene on her body and set fire to herself in the presence of the accused. But the accused did not do anything, he did not put off the fire and saved the deceased. It was held that the accused cannot be held liable under Section 306 I.P.C read with 107 I.P.C. And he has not committed any offence at all.

47. Sometimes, the decision to commit suicide might be taken by the victim himself/herself, unaccompanied by any act or instigation etc. on the part of the accused. A person may die like a coward. On his failure in the examination, a student may commit suicide. They are weak minded. They are persons of frail mentality. For the foolish mentality decision another person cannot be blamed."

9. In N.Anjali Devi & another Vs. the Superintendent of Police Villupuram and another (Supra) the petitioners therein were the school teachers. It was alleged that they had scolded the deceased for stealing money and the deceased felt ashamed committed suicide. But this Court has taken a view that the aforesaid act would not attract Section 306 of IPC.

10. In K.Ravikumar Vs. State by Station House Officer, Grand Bazaar Police Station, Pondicherry and another (Supra) the petitioner therein was a lecturer working in Annamalai University, Chidambaram, awarded fail mark of 20 to the deceased student. It was alleged that since fail mark was awarded, the student has committed suicide. This Court has held that the said alleged act of the petitioner would not attract Section 306 of IPC.

11. In U.Srikrishnan Vs. State rep .by Inspector of Police, Ambalamoola Police Station, (Supra) the petitioner therein was a teacher. It was alleged that the petitioner therein questioned about the stealing of calculator and because of the said act, the deceased committed suicide. This Court has observed that the teachers are next to the parents and they would take steps to bring up the students and correct their illegal activities and hence the act of the petitioner therein cannot be taken as abetting the deceased to commit suicide.

12. In the case on the hand, in the complaint, the second respondent has simply stated that the petitioner herein has scolded the deceased by using unparliamentary words, but the said words have not been mentioned. Further even after the alleged occurrence, the deceased was alive for more than three days, but, no steps were taken for getting dying declaration.

13. in view of the aforesaid decisions, even if the allegations made in the complaint are taken as true, it cannot be said that the petitioner has abetted the deceased to commit suicide. For attracting Section 306 of IPC, some positive act must have emanated from the accused towards the victim and should be in the Nature of forcing or urging the victim to take the extreme decision, In this case, as already pointed out that

nothing had come from the petitioner. Hence the petitioner cannot be blamed for the extreme decision taken by the victim. Therefore, this petition has to be allowed.

14. In the result, this petition is allowed. The FIR in Cr.No.270 of 2016 on the file of the first respondent is quashed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msrm

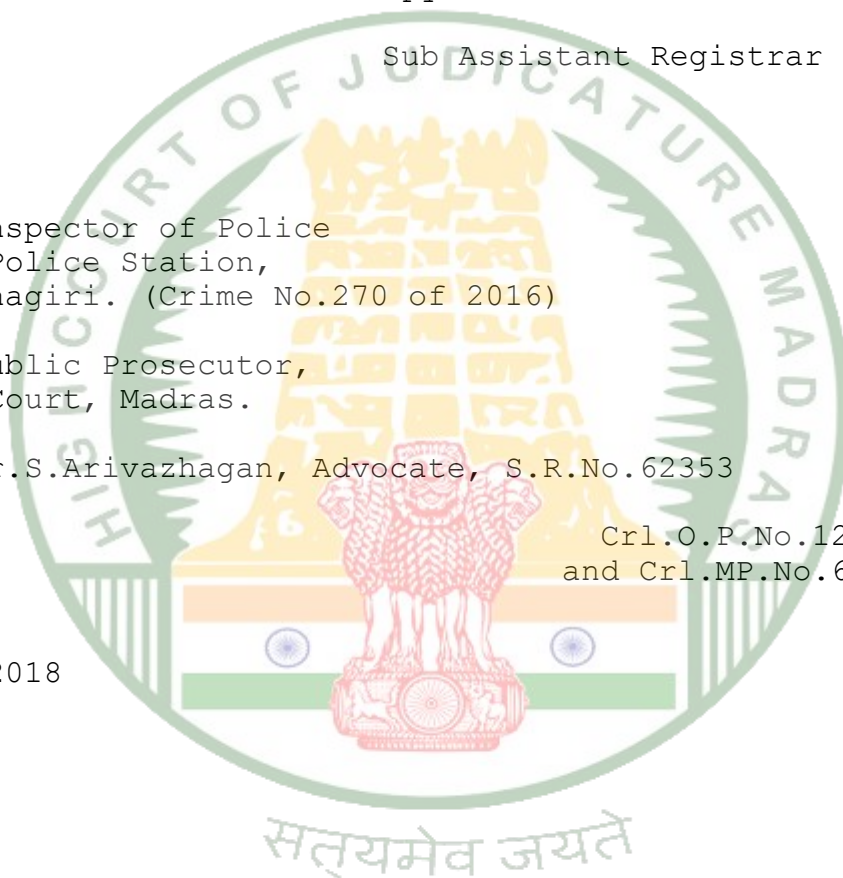
To

1. The Inspector of Police
Town Police Station,
Krishnagiri. (Crime No.270 of 2016)
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.62353

Crl.O.P.No.12700 of 2016
and Crl.MP.No.6552 of 2016

KK(CO)
CS/30/10/2018



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