



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 27.08.2018

Delivered On : 29.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD)No.20 of 2017

and

Crl.M.P.[MD].Nos.144 and 145 of 2018

1.Pandiyan

2.P.Kannan

... Revision Petitioners/Petitioners/
Accused No.1&2

Vs.

1.State Through

The Inspector of Police,
Solavanthan Police Station,
Madurai District.
[Crime No.303 of 2013]

...Respondent/Respondent/Complainant

2.N.Yoganathan

... Respondent/Defacto
Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C., against the order passed in Cr.M.P.No.1245 of 2015 dated 16.09.2016 in S.C.No.324 of 2015 on the file of the II-Additional Sub-Judge, Madurai.

For Petitioners : Mr.T.K.Gopalan

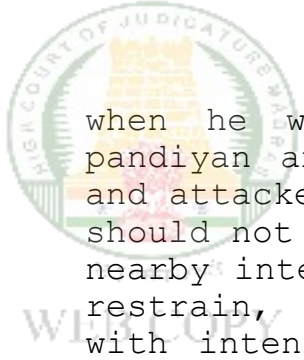
For R-1 : Mr.A.Robinson
Government Advocate (Crl. Side)

For Respondent
No.2 :No Appearance

ORDER

This Revision Petition is filed against the order passed in Cr.M.P.No.1245 of 2015 dated 16.09.2016 in S.C.No.324 of 2015 on the file of the II-Additional Sub-Judge, Madurai.

2. Based on the First Information Report registered upon the complaint of one Yoganathan on 19.10.2013 alleging that his brother Kogilan and Kasthuri, daughter of Pandiyan eloped and got married 1 ½ of years ago, this was not accepted by the Pandiyan's family. When Kogilan and his wife came to the village during vacation, Kasthuri was taken away by her parents. Therefore, for reunion, he and his family members tried to negotiate with the family members of Pandiyan. Due to the said enmity on 19.10.2013 at about 08.00 a.m.,



when he was crossing the shop of the first accused Pandiyan, pandiyan and his son Kannan restrained him, used abusive language and attacked with iron rod saying that having spoiled his family, he should not live any longer. Before they attack any further, people nearby intervened and prevented further assault. Alleging criminal restrain, use of abusive language and attack with lethal weapons with intention to cause death and intimating to cause death, the complaint was registered under Sections 341, 294(b), 324 and 506(i) of IPC. Thereafter, on completion of the investigation, offences under Section 307 of IPC has also been included in the final report. The learned Judicial Magistrate has gone through the records, has committed the case for trial to the Court of session.

3. It is contended by the learned counsel for the revision petitioner that though the complaint dated 19.10.2013 does not contain the word "இத்தோடு தொலைஞ்சு போடா", based on the 161 statement given by the de-facto complainant on 20.10.2013 by adding this word, offences under Section 307 of IPC, has also been incorporated. The learned Magistrate without proper appreciation of the materials placed before him, has mechanically committed the case to the Court of session. The Court of session despite filing a petition under Section 227 for discharge, has not considered the embellishment in the materials placed by the prosecution and had mechanically accepted the same to frame charge for offence under Section 307 of IPC.

4. Having aggrieved by the dismissal of the petition under Section 227 of Cr.P.C., the revision petition has been filed.

5. A perusal of the 161 statement of the listed witnesses the complaint, and the order passed by the learned II-Additional Sub-Judge, this Court finds no error in the order of framing charge under particular section. It is the bounden duty of the Court to consider the materials placed by the prosecution before framing charges. The learned Magistrate before whom final report has been filed, has to consider the case whether it is to be tried by the learned Magistrate or to be committed to the Court of session. Accordingly, in this case the learned Magistrate has committed the case to the Court of session. The committal Court, having found strong suspicion of the alleged offence from in the material placed by the prosecution has declined to entertain the discharge petition.

6. Law is now well-settled. At the stage of framing charges prima facie case is sufficient. The Court need not probe into the truth and veracity on the effect of the evidence, which the prosecution proposed to adduce. In this case, the very complaint itself indicates about use of lethal weapon, the intention to do away the de-facto complainant and the motive for such intention. These materials are sufficient to frame charge under Section 307 of IPC. It is not the nature of the injury caused, but the intention to cause that injury is relevant. Therefore, simple injury sustained by the de-facto complaint by itself cannot be a ground to



rule out the intention to cause death. When the complaint say the accused declared that they should no longer live, since they have spoiled his family. Therefore, this Court finds no merits in this Revision petition.

7. The Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-II)

To

- 1.The II-Additional Sub-Judge, Madurai.
- 2.The II Additional Assistant Sessions Judge,
Madurai.
- 3.The Inspector of Police,
Solavanthan Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.T.K.Gopalan, Advocate, SR.No.80874

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and
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ES/RP/SAR 2/20.09.2018/6C