



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2018

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THE HONOURABLE MRS. JUSTICE R. THARANI

Cr1. R.C.(MD)No.585 of 2017

State through the Inspector of Police,
Chinnamanur Police Station,
Theni District.

(Crime No.206/2013)

.. Petitioner/ Petitioner/Complainant

Vs.

1.Puthinapandi

2.Sivanandiu

3.Karthick

.. Respondents/Respondents/Accused

PRAYER : This revision case is filed under Sections 397 of Cr.P.C., to call for the records relating the orders passed by the learned Assistant Sessions Judge, Uthamapalayam, in C.M.P.No.153 of 2017 in S.C.No.4/2015, dated 28.06.2017 and set aside the same.

For Petitioner : Mr.M.Chandra Sekaran
Additional Public Prosecutor

For Respondents : No appearance

ORDER

In this case, though Court notice served on Respondents, name printed in the cause list, there is no representation on the side of the respondents.

2.Heard M.Chandra Sekaran, learned Additional Public Prosecutor appearing for the revision petitioner.

3. This revision case has been filed against the order passed by the learned Assistant Sessions Judge, Uthamapalayam, in C.M.P.No.153 of 2017 in S.C.No.4 of 2015, dated 28.06.2017 and to quash the same.

4.The case of the prosecution is that one Palaniammal preferred a complaint, her son Mariselvam, aged about 26 years was found hanging in a Tamarind tree around 07.00 a.m. on 21.07.2013. A case was registered in Crime No.206 of 2013, under Section 174 Cr.P.C. and after investigation disclosing cognizable offence the Section was altered into 306 I.P.C. and charge sheet was filed



against these respondents on 05.03.2014. Then the case was committed by the learned Judicial Magistrate, Uthamapalayam and was taken on file in S.C.No.4 of 2015 before the Assistant Sessions Judge, Uthamapalayam.

5. On the side of the petitioner, it is stated that the Medical Officer, who conducted autopsy over the dead body of the deceased was initially examined on 16.12.2016 and he gave evidence that the rib bones near the heart were broken and that contusion was present on the upper side of the right kidney of the deceased.

6. The petitioner was filed a petition in Cr.M.P.No.51 of 2017 for recall P.W.-12. On 28.03.2017, in the re-examination of P.W.12, the Medical Officer has given evidence that while hanging himself, there is no possibility of the fracture of rib bones and insofar as the contusion found in the right side of the kidney measuring 3x2 cm, such a condition is possible only if a pressure is exerted in that region and those injuries might have been caused within 24 hours prior to the autopsy. It is further stated that the deceased was hanging by using a Saree, the owner of the Saree was not found by the Investigation Agency.

7. When the petitioner filed a petition, in C.M.P.No.153 of 2017, for reinvestigation, on 28.06.2017, the trial Court dismissed the petition on the ground that the prosecution evidence was already over and the matter is posted for arguments and also the petition was filed belatedly. The learned Assistant Sessions Judge, Uthamapalayam has come to the conclusion that even prior to hearing the arguments of the prosecution which is tantamount to pre-determination and hence in the interest of justice and for prevention of miscarriage of justice, further investigation is to be allowed.

8. Records perused.

9. The postmortem report was available with the Investigation Agency, it seems that the Investigation Officer failed to go through the postmortem report properly and it seems that there is some thing wrong on the part of the investigation agency. The evidence of the Doctor's reveals that there is no possibility for these injuries to be caused, when a person commit suicide.

10. In these circumstances, the interest of justice, this Court deems it fit that re-investigation is necessary. Accordingly, the order passed by the learned Assistant Sessions Judge, Uthamapalayam, in C.M.P.No.153 of 2017 in S.C.No.4/2015, dated 28.06.2017 is quashed and this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (AS)

/True copy/



To

1.The Assistant Sessions Judge,
Uthamapalayam,

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

3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C. (MD) No.585 of 2017
05.07.2018

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