



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.07.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R.THARANICRL.R.C (MD) No.803 of 2017 and
Crl.M.P. (MD) No.9908 of 2017

M.Arunagirinathan

... Petitioner/Petitioner/
Defacto Complainant**-Vs-**1.Ganesh Ram
2.Kutralingam
3.Vasuki
4.Guruvammal
5.Manivannan
6.Rajamanickam... Respondents/Respondents/
Accused 1 to 67.The State through
Inspector of Police,
South Police Station,
Rajapalayam.... Respondent/Respondent/
Complainant

Prayer: Criminal Revision case is filed under section 397 r/w 401 Cr.P.C., to call for the records pursuant to the impugned order passed by the Honorable Judge of Fast Track Mahila Court, Virudhunagar District at Srivilliputtur in Crl.M.P.No.338 of 2016 in S.C.No.166 of 2015 dated 18.07.2017 and to set aside the same and allow the petition in Crl.M.P.No.338 of 2016 and to pass appropriate direction to the Trial Court to alter the charges.

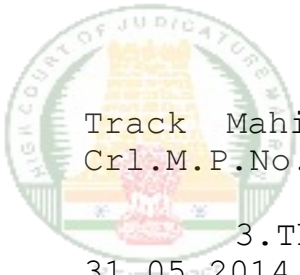
For Petitioner : Mr.Porkodi Karnan
for M/s.Polax Legal Solutions
For R1 to R3 : No appearance
For R4 to R6 : Mr.V.Augusamy
For R-7 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl. Side)

ORDER

Heard Mr.Porkodi Karnan for M/s.Polax Legal Solutions, learned counsel appearing for the petitioner, Mr.V.Augusamy, learned counsel appearing for the respondents 4 to 6 and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the seventh respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

2.This petition is filed against the order passed by the Fast



Track Mahila Court, Virudhunagar District at Srivilliputtur in CrI.M.P.No.338 of 2016 in S.C.No.166 of 2015 dated 18.07.2017.

3.The allegation against the respondents 1 to 6 is that on 31.05.2014 at 02.00 p.m., A1 harassed the deceased demanding dowry. On 01.06.2014, the defacto complainant received a phone call from the brother of the deceased's husband stating that his daughter committed suicide by hanging. A case was registered under Section 306, 304(B) I.P.C., r/w. Section 4 of Tamilnadu Prohibition of Harassment of Women Act and it was altered into Section 498(A) and 304(B) I.P.C.,

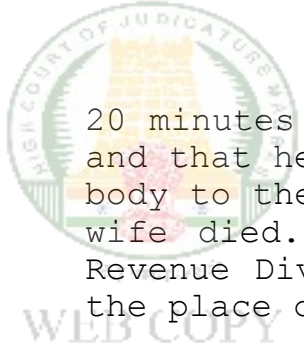
4.The petitioner is the defacto complainant and the daughter of the petitioner was married to the first accused herein. On 01.06.2014, when the deceased was attending a house warming ceremony of a relative of the first respondent, the first respondent in a drunken mood beaten the deceased by demanding jewels and cash and caused her injuries. On the same day at midnight, the first respondent strangled her neck with his hands and murdered her and make it as if she has committed suicide.

5.On the side of the petitioner, it is stated that the deceased stayed only in the house of A1 and A1 has murdered the deceased. There is no need for her to commit suicide leaving her seven months old child. The enquiry report of the Revenue Divisional Officer reveals that there is no chance for the deceased to have committed suicide and that the death cannot be a natural one.

6.The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of **T.S.Thakur, Ranjana Prakash Desai, JJ. Jasvinder Saini & others Vs. State (Govt. of NCT of Delhi)** reported in **S.L.P. (CrI.) No.8738 of 2011**, dated 02.07.2013 stated here under:-

"Trial Court acted appropriate for the High Court to remit rather than lending support to it in the manner done by the High Court - Order passed by the trial Court and as also that passed by the High Court are liable to be set aside."

7.The petitioner has filed a petition for alteration of the charges under Section 216 of Cr.P.C. It is further stated that a Certificate of Postmortem reveals that there are injuries in the hands of deceased. The complaint was prepared by the Police and due to sadness over the death of his daughter, the petitioner signed the complaint without reading it. In an earlier occasions a complaint was lodged before the Rajapalayam South police Station against the first respondent in Receipt No.379/2010. There are contradictions in the statement of the first accused given before the Revenue Divisional Officer and the statement given before the Special Sub Inspector, wherein it is stated that the child was weeping and the accused was smoking inside the bathroom and he came out after 15 to



20 minutes and saw his wife hanging with a rope used for the cradle and that he cut the rope and laid the body on the floor and took the body to the Government hospital and that the doctor had declared his wife died. The Special Sub Inspector gave a statement before the Revenue Divisional Officer that as per the phone message he went to the place of occurrence and saw the dead body of a female.

8. On the side of the accused, it is stated that charges were also framed and the trial of the case was also commenced. The petitioner has not come forward with this petition before the commencement of the trial. The Court can alter the charges only after recording of the evidence, at this stage there are no materials to alter the charges. On the side of the accused, it is further argued that the evidence given before the Revenue Divisional Officer is not conclusive. The injuries are very minor in nature and this petition has to be dismissed.

9. Records perused. A perusal of the report of the Revenue Divisional Officer reveals that there is a suspicion regarding the cause the death of the deceased. It is stated that there are injuries on the body of the deceased as per postmortem report. The charge can be altered at any stage of the case as claimed over the charge against the accused. This Court deems it fit to set aside the order passed by the trial Court and to remand the matter again for the consideration of the trial Court and the trial Court is directed to consider the petition after the completion of the prosecution the evidence. Accordingly, this Criminal Revision is allowed. Consequently, Crl.M.P.(MD)No.9908 of 2017 is closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Fast Track Mahila Court,
Srivilliputtur, Virudhunagar District.
2. The Inspector of Police,
South Police Station,
Rajapalayam.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy To:-

The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

CP

TE/SKN-RSK/SAR-4 : 18/07/2018 : 3P/6C