

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.10.2018

Pronounced on : 14.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.15268 of 2010

and

M.P.No.1 of 2010

1. R.Kannan,
S/o.Raman @ Ramar

2. M.Muthusamy,
S/o.Marimuthu

3. R.Govindarajan
@ Govindaramanujam,
S/o.S.Raman@ Ramar

4. S.Raman @ Ramar
S/o.Sengodan

5.Ranganayaki,
W/o.Raman @ Ramar

6.R.Velu,
S/o.Raman.

... Petitioners

Vs.

The State represented by
The Inspector of Police, (Law & Order)
Vazhapadi Police Station,
Vazhapadi,
Salem District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.C.No.252 of 2009 pending on the file of the learned Principal Assistant Sessions Judge, Salem and quash the said proceedings as against the petitioners herein as not maintainable.

For Petitioners: No appearance

For Respondent : Ms.V.Saratha Devi,
Government Advocate (Crl. Side)

* * * * *

O R D E R

The petitioners are A1 to A5 and A7 in S.C.No.252 of 2009 on the file of the Principal Sessions Judge, Salem, pending trial for the offence under Section 306 of the Indian Penal Code. A6 in this case died when the charge sheet was filed. Now it is reported that A4, S.Raman passed away on 21.08.2017.

2.The case of the prosecution is that the defacto complainant namely Krishnan was employed as Driver in the JCB owned by the first petitioner/A1 for the past seven years and the first respondent/A1 agreed to pay Rs.7,000/- as monthly wages. The wage was not paid for all these years, on the promise that the marriage expenses of the said Krishnan would be borne by him and further he would get him a JCB Vehicle. Believing the same for the past seven years he had been working with Kannan/A1, who is the brother-in-law of the third petitioner. Thereafter, the said Kannan/A1 and other accused failed to purchase a JCB vehicle for the deceased. When the same was questioned by the deceased Krishnan, the accused uttered that no vehicle would be purchased and stated that the said Kannan/A1 was fed all these years and was given expenses then and there and there is no amount to be paid to him. Further asked him to go and end his life and nothing is going to happen.

3.On 18.03.2005 at about 10.30 a.m. the said Krishnan committed suicide by hanging himself in his house and the accused are the cause for the suicide of the said Krishnan. The complainant lodged a complaint before the respondent/police who registered a case and filed the charge sheet against the accused. The first petitioner is A1 under whom the deceased Krishnan was employed. The second petitioner is the brother-in-law of the first petitioner, A3 is the brother of the first petitioner, A4 and A5 are the parents of A1, A6 is the daughter of A4 and A5 and A6 died before the filing of the charge sheet, A7 is the another brother of A1.

4.The contention of the learned counsel for the petitioners is that the deceased Krishnan is none other than the brother-in-law of the third petitioner i.e. brother of one Vijayalakshi, who is the estranged wife of the third petitioner/A3. There is some matrimonial dispute between A3 and his wife Vijayalakshmi. 20 days prior to the occurrence, the said Vijayalakshmi lodged a complaint to the All Women Police Station, Omaloor and the third petitioner/A3 was arrested and remanded and he was in custody for 20 days. Due to which, the petitioner Nos.2 to 5 and 7, who are residing separately and have nothing to do with the suicide of the deceased Krishnan, have been falsely implicated in this case. Further there is no specific overt act as against the petitioners, except for bald sweeping allegation.

5.The learned counsel for the petitioner submits that the petitioner Nos.2 to 5 and 7 having no nexus with respect to the employment conditions of the said deceased Krishnan with the first petitioner/Kannan/A1. The entire complaint has been filed only with a view to brook vengeance against the petitioners. Except the family members, no independent witnesses have been examined in this case. The petitioners belong to one family and the entire family has been implicated due to personal animosity and motive between the third petitioner and his wife. The marriage of the defacto complainant's daughter Vijayalakshmi with the third petitioner/A3 is strained and broken. Hence, the petitioners prayed that there is no nexus and proximity for the act of the said Krishnan in ending his life with the petitioners. By no such stretch the petitioners could have abetted and being the cause of death of the said Krishnan.

6.The learned Government Advocate submits that on receipt of the complaint initially a case was filed under Section 174 of the Code of Criminal Procedure, thereafter, investigation was carried out, the respondent had reached the scene of occurrence and conducted inquest, thereafter Section was altered to 306 IPC on 19.09.2005, examined the witnesses and sent the body for post mortem and obtained post mortem report and viscera report. The respondent police had examined further witnesses and filed the final report.

7.LW1 to LW9 have been cited as witnesses and documents and material objects have been filed in this case. The charge sheet was filed only after thorough investigation and after getting opinion. It is found that LW1-Palani, father of the deceased; LW2-Vijayalakshmi, sister of the deceased; LW3-Perumal, country head; LW4 and LW5 are the neighbours; LW6-Kala, sister of the deceased; LW7-Dr.Vallinayagam, conducted post mortem and LW8 and LW9, the Investigating Officers, who had conducted inquest, examined witnesses, collected documents and filed the charge sheet.

8.On perusal of the statements, it is found that the deceased Krishnan was employed only under the first petitioner/A1/Kannan and it is an admitted fact that there has been estranged animosity between the third petitioner's family and his wife and A3 was arrested for the matrimonial case and he was in confinement for 20 days. Further none of the witnesses have spoken anything about the accused Nos.2 to 5 and 7, except for bald and sweeping allegation, this case has been filed against the accused Nos.2 to 5 and 7.

9.Further on perusal of the records, it is seen that initially, the charge sheet has been filed only against the

first accused/A1, thereafter, on the advise of the Deputy Director of Prosecution the accused Nos.2 to 7 have been arrayed as accused and charge sheet was filed on 22.08.2007. Thereafter, charge sheet came to be returned for various reasons and finally it was taken on file in the year 2009. Further, it is seen that though the occurrence said to have taken place on 18.03.2005, the complaint, FIR and other documents have reached the Court belatedly only on 29.03.2005. LW9, the subsequent Inspector of Police, C.S.Muthazhagu, who filed the final report had made endorsement that on the advise of the Deputy Director of the Prosecution, the petitioner Nos.2 to 7/A2 to A7 have been arrayed as accused. No investigation and materials have been collected to array the petitioner Nos.2 to 7 as accused in this case. In the absence of any new materials and further there has been strong motive for implicating the entire family members of the first accused, who are residing at different places could be seen from the final report, wherein the address of the petitioner Nos.2 to 5 and 7 are at various places.

10.Further as it could be seen from the materials that there is no direct nexus with the result of the words uttered by the petitioners to instigate the deceased to commit suicide and further there is no positive proof regarding mens rea and it could not be stated that the suicide of the deceased was occurred due to the direct result of any word uttered by the petitioners.

11.In view of the same, it is found that continuation of proceedings against the petitioner Nos.2 to 5 and 7 would amount to abuse of process and hence, this Court quashes the proceedings in S.C.No.252 of 2009 as against the petitioner Nos.2 to 5 and 7/A2 to A5 and A7 alone. With regard to the first petitioner/A1 the Criminal Original Petition stands dismissed.

12.Accordingly, this Criminal Original Petition stands partly allowed. Since the case is pending trial from the year 2009, the trial Court is directed to complete the trial, by giving top priority to this case, as expeditiously as possible. Consequently, the connected Miscellaneous Petition stands closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

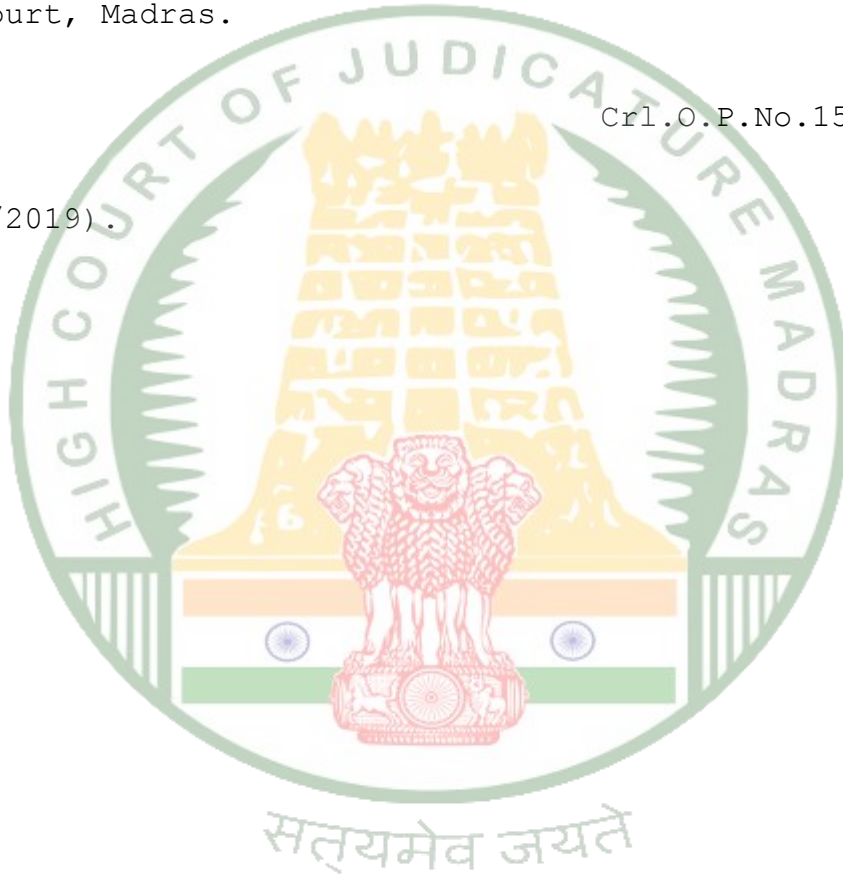
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To

1. The Principal Assistant Sessions Judge,
Salem.
2. The Inspector of Police, (Law & Order)
Vazhapadi Police Station,
Vazhapadi,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

ORDER IN
Crl.O.P.No.15268 of 2010

SPD(CO)
SSM(05/04/2019).



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