

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 01.04.2019****CORAM:****THE HONOURABLE MR.JUSTICE P.N.PRAKASH****Crl.O.P.(MD) No.6371 of 2014****and****M.P.(MD) No.1 of 2014**

- 1.Veeralakshmi
- 2.Balan
- 3.Sundari
- 4.Elangovan

... Petitioners/Accused Nos.1 to 4

vs.

- 1.The Inspector of Police
K.Pudhur Police Station
Madurai
Crime No.972/2009

..1st Respondent/Complainant

- 2.Balakupentharan
- 3.K.Maheswari
[R3 impleaded as per the order
of the Court made in Crl.M.P.
(MD) No.11409 of 2016, dated
25.03.2019]

..2nd Respondent/Witness No.2

... 3rd Respondent

PRAYER: Petition is filed under Section 482 Cr.P.C., to call for the records relating with the charge sheet in P.R.C.No.13/2014 on the file of the Judicial Magistrate No.6, Madurai and quash the same.

For Petitioners : Mr.R.Surianarayanan

For Respondents : Mr.M.Chandrasekaran

Additional Public Prosecutor for R1

Mr.S.Vellaichamy for R2

Mr.S.Alagusundar for R3

O R D E R

Veeralakshmi (A1) got married to Balasubramanian (deceased) on 13.12.2007 and after marriage, they lived together for about four months in the matrimonial home. Veeralakshmi conceived and so, she went to her natal home for delivery. A girl child was born to her on 07.10.2008 and after that, she refused to join her husband Balasubramanian. Balasubramanian made several attempts, through mediators, to make Veeralakshmi join him, but to no avail. According to Balasubramanian, Veeralakshmi has a very sharp tongue



and she caused hurt to him several times by stinging words. Therefore, on 28.02.2009, he attempted to commit suicide by consuming sleeping pills mixed in kerosene oil. However, his relatives, who came to know of it, took him to the hospital and saved his life. After recovery, Balasubramanian filed H.M.O.P.No.283 of 2009, before the Family Court, Madurai, for divorce on the ground of cruelty.

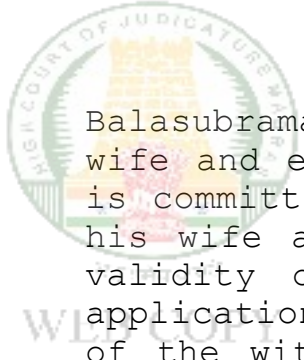
2. It appears that Balasubramanian was working as Junior Assistant in the Ex-Servicemen Welfare Board and for some reasons, which were not known to either the prosecution or the defence, he was suspended from service. While that being so, Balasubramanian wrote a suicide note dated 20.08.2009 and sent copies of it to the Commissioner of Police, Madurai, his employer and his grandmother and kept one copy of it in his pocket. On the same day, he consumed Endosulfan and came to Veeralakshmi's house about 10.30 p.m. and fell down. Seeing his condition, Balan (A2), father of Veeralakshmi, called 108 Ambulance and took him to the Government Rajaji Hospital, Madurai, where he was admitted as inpatient. However, he died on the next day. On the complaint lodged by Rajalakshmi, grandmother of Balasubramanian, the Police registered a case in Crime No.972 of 2009, on 21.08.2009, under Section 174 Cr.P.C. After performing postmortem and recording statements of witnesses, the case was altered to one under Section 306 I.P.C. The postmortem report shows that Balasubramanian had consumed Endosulfan, which had caused his death. After completing the investigation, the Police have filed charge sheet in P.R.C.No.13 of 2014, before the learned Judicial Magistrate No.VI, Madurai, against Veeralakshmi (A1 - wife of the deceased), Balan (A2 - father of Veeralakshmi), Sundari (A3 - Mother of Veeralakshmi) and Elangovan (A4 - brother of Veeralakshmi), for the offence punishable under Section 306 I.P.C., challenging which, this quash application has been filed.

3. Heard the learned counsel on either side.

4. Since Rajalakshmi, who gave the complaint which formed the basis for the registration of the F.I.R., had died, her relatives, namely, Balakupentharan and Maheswari have been impleaded as respondents 2 and 3.

5. Learned counsel for the accused submitted that the present prosecution is clearly an abuse of process of law, because, even in the divorce application in H.M.O.P.No.283 of 2009, Balasubramanian has not stated about the allegations that are now being levelled against the accused through the Police statements of his relatives.

6. Per contra, the learned counsel appearing for the third respondent submitted that even in the divorce application,



Balasubramanian has alleged about the acts of cruelty against his wife and even in the suicide note, he has clearly stated that he is committing suicide, because of the cruelty meted out to him by his wife and her family members. He further contended that the validity of the suicide note cannot be gone into in a quash application. He further submitted that in the Police statements of the witnesses, they have stated that Veeralakshmi (A1) had a love affair with someone prior to the marriage and therefore, she was refusing to join Balasubramanian. He further submitted that the suicide note of Balasubramanian has to be treated as dying declaration under Section 32(1) of the Evidence Act.

7. The learned Additional Public Prosecutor also supported the contentions raised by the learned counsel for the third respondent and submitted that the prosecution should not be quashed at the threshold and an opportunity should be given to the prosecution to establish the allegations.

8. This Court gave its anxious consideration to the rival submissions.

9. It is true that a criminal prosecution should not be quashed as a matter of routine at the threshold, unless the circumstances so warrant. The Judgments of the Supreme Court on this point are a legion and therefore, it may not be necessary to refer to them. In this case, it is an admitted fact that Veeralakshmi (A1) went to her natal home for delivery and after the delivery on 07.10.2008, she did not join Balasubramanian. Balasubramanian himself has admitted in Paragraph No.7 of the divorce petition in H.M.O.P.No.283 of 2009 filed by him that, on 28.02.2009, he attempted to commit suicide, because, Veeralakshmi (A1) refused to join him even eight months after the child was born and whenever he went to meet her, she humiliated him. However, in the divorce petition, there is absolutely no whisper about the alleged love affair of Veeralakshmi (A1) with someone prior to marriage. There is also no reference in the divorce petition that Veeralakshmi (A1) was demanding some immovable properties from the deceased as a pre-condition for rejoining. Except the vague allegation that Veeralakshmi (A1) insulted Balasubramanian, whenever he approached her for rejoining, there is no other allegation of cruelty against her in the divorce petition. On the contrary, the fact that Balasubramanian attempted to commit suicide earlier on 28.02.2009, which he himself had disclosed in Paragraph No.7 of the divorce petition, clearly shows that he was an emotional person and he was finding it hard to face the ups and downs of life.

10. Now, coming to the suicide note dated 20.08.2009, the English transcription of the same is as under:

"I am working as Junior Assistant in the Madurai



District Ex-Servicemen Welfare Board. On account of vindictiveness, Major Prasad, Assistant Director of the Board, placed me under suspension, on account of which, I am heartbroken. My wife Veeralakshmi, her father Balan, mother Sundari and Sumathi have instigated their relative one Elangovan, Inspector of Police, to kill me. My wife's family members are harassing me. Therefore, I am heartbroken. I am committing suicide only because of these persons. These persons should be adequately punished and my properties should not be given to any of them. My death is not natural, but on account of instigation of these persons."

11. A reading of the suicide note shows that Balasubramanian faced trouble not only in the family, but also in his office. He has implicated Major Prasad, Assistant Director of the Ex-Servicemen Welfare Board, who had placed him under suspension, along with his wife and family members. In the suicide note also, he has not stated that his wife was having love affair with someone prior to marriage or that she was demanding some immovable properties from him. Except vaguely saying that his wife and her family members had instigated him, he has not stated the manner of instigation. For mulcting criminal liability under Section 306 I.P.C., the allegations must pass muster the requirements of Section 107 I.P.C. If the prosecution wants to rely upon the suicide note, they cannot selectively implicate Veeralakshmi (A1) and her family members and leave out Major Prasad. The Police statements of the witnesses are to the effect that Veeralakshmi (A1) lodged a complaint against Balasubramanian in S.S.Colony Police Station and that is why, he was depressed. There is absolutely no material to show that Veeralakshmi (A1) gave complaint in S.S.Colony Police Station as alleged by the witnesses in their Section 161(3) Cr.P.C. statements. Even assuming for a moment that Veeralakshmi (A1) has lodged a police complaint in S.S.Colony Police Station, that only shows that she has taken recourse to legal process, which cannot be a good reason for Balasubramanian to commit suicide.

12. As regards the submission that the suicide note of Balasubramanian has to be treated as dying declaration under Section 32(1) of the Evidence Act, in the opinion of this Court, even if the suicide note is treated as a dying declaration, it does not contain the necessary ingredients of abetment to fasten criminal liability under Section 306 I.P.C. It is dangerous to implicate people based on suicide notes of weak willed persons, without anything more. A litigant who loses a case can commit suicide after leaving a suicide note saying that he is committing suicide because he lost the case as it was mishandled by his lawyer. Can the lawyer be implicated under Section 306 I.P.C? Fortunately, Judges are protected by the Judges (Protection) Act,



1985. Otherwise, they also would not be spared. Today, it has become a pernicious habit to blackmail another with threat of suicide. In this case also, Major Prasad, who had placed Balasubramanian under suspension, must have rued out of fear on learning that his name figures in the suicide note.

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13. Under such circumstances, the prosecution of Veeralakshmi (A1) and her family members under Section 306 I.P.C. is an abuse of process of law and the same deserves to be quashed.

14. In the result, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.13 of 2014, on the file of the learned Judicial Magistrate No.VI, Madurai, against the petitioners herein, are hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Judicial Magistrate No.VI,
Madurai.

2.The Inspector of Police,
K.Pudhur Police Station,
Madurai.

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

+1 CC to M/s.S.ALAGUSUNDAR, Advocate (SR-58234[F] dated
01/04/2019)

+1 CC to M/s.R.SURIYA NARAYANAN, Advocate (SR-58375[F] dated
02/04/2019)

krk

Crl.O.P. (MD) No.6371 of 2014

and

M.P. (MD) No.1 of 2014

01.04.2019

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