



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2019
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.(MD).No.8254 of 2018
and
CrI.M.P.(MD)No.3711 and 3712 of 2018

Raja : Petitioner/Sole Accused
Vs.

1.State represented by
The Inspector of Police,
Madukkur Police Station,
Thanjavur District.
(Crime No.25/2018) : 1st Respondent/Complainant

2.Ravichandran : 2nd Respondents/Defacto
Complainant

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records and quash the proceedings which has been taken on file in P.R.C.No.23 of 2018 on the file of the learned Judicial Magistrate, Pattukkottai, Thanjavur District.

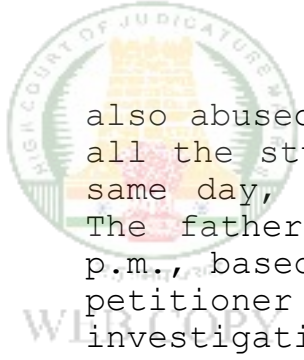
For Petitioner : Mr.A.Thiruvadi Kumar
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (CrI.Side)
For R2 : Mr.R.P.Ramachanthiran

ORDER

The petitioner is the sole accused in P.R.C.No.23 of 2018 pending on the file of the learned Judicial Magistrate, Pattukkottai, Thanjavur District charged for the offence under Section 306 IPC and to quash the same the present petition has been filed by the petitioner.

2. The case of the prosecution in brief is as follows:-

(i) The petitioner is the Teacher working in Mount Carmel Matriculation Higher Secondary School, Mudalcheri, Pattukkottai. The deceased one Santhosh Raja was studying in higher secondary (12th Standard) course in the above said School. On 12.02.2018 at about 10.00 a.m., some of the students along with the deceased, and said to have damaged the fan and switch board in the class rooms. At the time, the petitioner / accused, came to the class room and shouted at the students and asked them not to make noise, and scolded the students standing therein including the deceased saying that they have only damaged the fans in the class rooms and he has



also abused the deceased saying that, 'he is of no use'. Thereafter all the students left the School at about 01.30 p.m.. On the very same day, the deceased committed suicide by hanging in his house. The father of the deceased has given a complaint at about 07.30 p.m., based on the same, a complaint has been registered against the petitioner for the offence under Section 306 IPC. On completion of investigation, final report has been filed, and it was taken cognizance by the learned Judicial Magistrate, now the matter is pending for committal.

3. The learned counsel for the petitioner submitted that the material collected during investigation do not disclose the offence under Section 306 IPC. Even from the statement of the students, who were studying with the deceased, it could be seen that the accused only shouted at the students, who are said to have damaged the fan and switch board in the class room. It could also be seen that after the occurrence the deceased was happy, he also had lunch with his friends, thereafter left for his house. There is no allegation that the accused has beaten any students, and the statement of all the Teachers working in the School recorded under Section 161 Cr.P.C., also shows that, as the students have shouted in the class room, it was contemned by the accused. None of the statement recorded from the witnesses *prima facie* shows that the petitioner has abetted the accused to commit suicide. The petitioner has no *mens rea* to instigate the deceased to commit suicide. The petitioner being a Teacher in the said School only in order to maintain discipline among the students, he advised the students and it cannot be construed as abetment. The learned counsel for the petitioner also relies on various judgments in respect of his contentions.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent would contend that the statements of the co-students recorded under Section 161 Cr.P.C., clearly reveal that the petitioner has scolded the deceased saying that 'he is of no use'. Thereby, he intentionally instigated the deceased to commit suicide. Statements of the parents of the deceased reveal that after returning to house from the school, the deceased was very dull; he went to upstairs; there he committed suicide and there is no other reason for the deceased to commit suicide. The materials available on record *prima facie* constitute an offence under Section 306 IPC against the petitioner. At this stage, there is no reason to quash the proceedings.

5. I have heard the rival submissions and also perused the materials placed on record.

6. Admittedly, the petitioner is a Teacher and the deceased was a student studied under him. On a perusal of the material available on record, it could be seen that on 12.02.2018, at about 10.00 a.m., the deceased and other students, were making noise in the class room and said to have damaged fans and switch board. At the time the

petitioner came there and asked the students not to make noise. Thereafter, some of the students left the class room and only six or seven students were there including the deceased. As the students have damaged the ceiling fan and switch board in the class room, the petitioner said to have scolded the students standing there including the deceased. From the statements of the co-students viz., L.W.3 to L.W.10, it could be seen that the petitioner said to have abused the students especially the deceased by saying that he is of no use (நீயைக் காம் இருந்து என்ன பிரயோஜனம்), then all the students left the class room, they had lunch, then they left for their home at about 01.30 p.m. Thereafter, the deceased committed suicide by hanging in his home. Alleging that only due to abetment of the petitioner, the deceased have committed suicide, he has been charged under Section 306 IPC.

7. Before considering the case on merit, it is useful to refer the relevant provisions of the Act. Section 306 IPC, prescribed the punishment for abetment of suicide and reads as follows:

"If any person commit suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

The basic ingredients of this provision are the suicidal death and abetment thereof."

8. Section 107 IPC defines "abetment" and reads as follows:-

"A person abets the doing of a thing, who -

First - Instigates any person to do that thing; or

Secondly - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly - Intentionally aids, by any act or illegal omission, the doing of that thing"

9. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. To bring home an offence under Section 306 IPC, the prosecution has to establish that the person has committed suicide and the said suicide has been abetted by the accused, and the prosecution should also prove that the accused has a clear mensrea to commit the offence and that there ought to be an active or direct act leading the deceased to commit suicide.

10. In *S.S. Chheena v. Vijay Kumar Mahajan and Another* (2010) 12 SCC 190: LNIND 2010 SC 746: (2011) 1 MLJ (Crl) 547, it is held as follows:-

"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part



of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

11. In the instant case when the students including the deceased were behaved in an indisciplined manner and also damaged the ceiling fan and switch board in the class room, the petitioner being a teacher shouted at the students in the class room in order to maintain discipline. It was not only the deceased, but number of other students were also there at the time of the occurrence. From the statements of the students, it could be seen that the petitioner shouted at all the students, who were present in the class room including the deceased. Even though the petitioner has scolded the deceased that he is of no use, that cannot be at any rate construed as an abetment. There is no material available on record to show that the petitioner has any *mens rea* to instigate a Student to commit suicide. The materials available on record do not make out any offence under Section 306 IPC against the petitioner. In the said circumstances continuance of the said criminal proceedings will amount to abuse of process of Court.

12. Considering the above circumstances, I am inclined to quash the criminal proceedings.

13. In the result, this Criminal Original Petition is allowed and the entire proceedings in P.R.C.No.23 of 2018 pending on the file of the learned Judicial Magistrate, Pattukkottai, Thanjavur District is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate, Pattukkottai,
Thanjavur.

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

2. The Chief Judicial Magistrate,
Tanjore at Kumbakonam



3. The Inspector of Police,
Madukkur Police Station,
Thanjavur District.

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

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-78587[F] dated
30/07/2019)

+1 CC to Mr.R.P.RAMACHANTHIRAN, Advocate (SR-78532[F] dated
30/07/2019)

CRL.O.P.(MD) .No.8254 of 2018

Dated:30.07.2019

MK (21.08.2019) 5P 7C