

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.02 2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P. NO. 7690 OF 2015

A.Arumugam

.. Petitioner/Accused-1

- Vs -

1. State, rep. by
Deputy Superintendent of Police
District Crime Branch
Kanchipuram.
2. The Inspector of Police
E-1, Mahabalipuram Police Station
Kanchipuram District. .. Respondents/Complainants

Petition filed u/s 482 of the Code of Criminal Procedure, to call for the records pertaining to the final report filed in S.C. No.204/2014 on the file of the Principal Subordinate Court, Chengalpet and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr. S.Joel

For Respondents: Mr. C.Iyyapparaj, APP

JUDGMENT

The present petition has been filed for quashment of the final report filed in S.C. No.204/2014 insofar as the petitioner is concerned.

2. It is the case of the petitioner that the son of the defacto complainant, who was working as a driver under him, had developed liking with his minor daughter and with a view to marry her, had kidnapped his daughter and had married her at Thittagudi and had left her at the house of his uncle. The petitioner's efforts culminated in securing his daughter and, thereafter, the petitioner lodged a complaint with the respondent police based on which the accused was taken into custody.

3. It is the further case of the petitioner that the accused had committed suicide on 18.6.04, which is evident from the FIR in which it is shown that the deceased/accused had consumed pesticide. Further, the defacto complainant had also requested the 1st respondent to hand over the body of the deceased/accused, which is reflected in the FIR. Since there were bitter feelings between the petitioner and the defacto complainant in view of the petitioner lodging a complaint against her son and putting him behind bars, to take revenge against him the defacto complainant had filed Crl. O.P. No.2230 of 2008 before this Court for direction to the investigating agency to conduct fresh investigation. Pursuant to the said petition, this Court had directed fresh investigation to be caused by an officer not lower in rank than a Deputy Superintendent of Police. Accordingly, investigation was taken up and final report was filed in S.C. No.204/2014 for the offence u/s 306 IPC against the petitioner.

4. Learned counsel appearing for the petitioner submits that the statements of the witnesses, which were recorded does not in any way satisfy the ingredients of the offence u/s 306 IPC. It is the contention of the learned counsel for the petitioner that as a father, out of frustration and condemning the act of the accused in kidnapping his daughter and marrying her, he has rebuked the accused and that there was neither intent nor abetment on the part of the petitioner to cause the act of suicide. Even the statement of the witnesses reveal the actual words spoken by the petitioner and mere uttering of words, without there being any intention for abetment would not attract the offence u/s 306 IPC as has been held by the Hon'ble Supreme Court in M.Arjuna - Vs - State (2019 (3) SCC 315).

5. Per contra, learned Addl. Public Prosecutor appearing for the respondents submitted that the act of the petitioner had driven the accused to commit suicide, which would very well fall within the parameters of abetment and, therefore, the law enforcing agency had well within the framework of law, charged the petitioner u/s 306 IPC and, therefore, no interference is called for with the final report filed by the respondents.

6. This Court paid its utmost attention to the submissions advanced by the learned counsel on either side and also perused the materials available on record as also the final report filed in S.C. No.204/2014.

7. The crucial question that falls for consideration in the present case is whether the act of the petitioner would fall within the four boundaries of Section 306 IPC and, thereby, the petitioner has abetted the accused to commit suicide.

8. In Arjunan's case (supra), the Hon'ble Supreme Court had outlined as to what are the essential ingredients of an offence u/s 306 IPC and for better clarity, the relevant portion is extracted hereunder :-

"7. The essential ingredients of the offence under Section 306 IPC are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC.

8. In our considered view, in the case at hand, MO 1 letter and the oral evidence of PW 1 to PW 5, would not be sufficient to establish that the suicide by the deceased was directly linked to the instigation or abetment by the appellant-deceased. Having advanced the money to the deceased, the appellant-accused might have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 IPC. From the evidence brought on record and in the facts and circumstances of the case, in our view the ingredients of Section 306 IPC are not established and the conviction of the appellant-accused under Section 306 IPC cannot be sustained."

9. From the above ratio, it is categorically clear that the essential ingredients of the offence under Section 306 IPC are (i) abetment and (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. Both the ingredients should be satisfied to bring the act within the four corners of Section 306 IPC.

10. In the case on hand, the materials available on record reveals that the act of the accused had not only perturbed the petitioner, but had equally caused mental anguish to him, which had resulted in the petitioner insulting the deceased by using abusive language. Mere act of the petitioner using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. The accused having besmirched the family name

of the petitioner by kidnapping his daughter, who was a minor and marrying her, definitely would have left lingering bitterness in the mind of the petitioner which would have prompted the petitioner to utter some abusive words, which specifically had happened in this case; but that by itself is not sufficient to constitute the offence under Section 306 IPC. From the evidence brought on record and in the facts and circumstances of the case, this Court is of the considered view that the ingredients of Section 306 IPC does not even stand attracted to the case on hand. Implicating the petitioner for ventilating his genuine feelings on the act of the accused, would, by no stretch of thought, could be termed to be an abetment attracting the prosecution u/s 306 IPC.

11. For the reasons aforesaid, this Court is of the considered view that the prosecution of the petitioner for the offence u/s 306 IPC does not merit acceptance and, accordingly, the same deserves to be quashed.

12. Accordingly, the final report filed by the respondents in S.C. No.204/2014 on the file of the Principal Subordinate Court, Chengalpet, is quashed and this criminal original petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

- 1) The Principal Subordinate Court
Chengalpet.
- 2) The Deputy Superintendent of Police,
District Crime Branch, Kanchipuram.
- 3) The Inspector of Police,
E-1, Mahabalipuram Police Station,
Kanchipuram District.
- 4) The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Joel, Advocate, S.R.No.17133

CRL. O.P. NO. 7690 OF 2015

RJI (CO)
RSI (22/05/2020)