

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.06.2020

PRONOUNCED ON : 23.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.8888 of 2020

Kalaiyarasan

... Petitioner

/Vs/

The State Rep by
The Inspector of Police,
Kattur Police Station,
Tiruvallur District.
(Crime No.127 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under section 439 of Cr.P.C., to enlarge the Petitioner on bail in Crime No.127 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 01.06.2020, for the offences punishable under Section 174 of Cr.P.C subsequently altered into 306 of IPC in Crime No.127 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 07.04.2020 at about 6.00 p.m., the defacto complainant one Janarthanan lodged a complaint that his daughter Karthika during the year 2018 joined as Women Police Constable. Thereafter, she was posted in Kattur Police Station, Thiruvallur District and she was living alone there. On 06.04.2020, she spoken to her family members through mobile phone and she was normal. On 07.04.2020 at about 08.54 a.m., a person from Kattur Police Station contacted the defacto complainant informed him that his daughter Karthika had not reported to the duty and when she was attempted to be contacted her mobile phone was switched off. Thereafter, it was learnt that Karthika had committed suicide by hanging herself in the bathroom. The said Karthika was normal when she spoke to the defacto complainant and also to the local residents. Further, he had complaint that from the date of her joining at Kattur Police Station, the Station Writer was continuously/constantly harassing her as informed by her to the parents. Hence, the defacto complainant had suspicion in his daughter's death, lodged a complaint. Initially a case under Section 174 of Cr.P.C was filed.

3.The contention of the learned counsel for the petitioner is that the petitioner was arrested after a lapse of two months ie., on 31.05.2020 that the petitioner abetted the suicide of the deceased. The petitioner is a police constable posted and performing duty in Villupuram District and he was assigned for Covid-19 duty. The petitioner and the deceased developed love affair while they were taking training in the year 2018 and their love affair continued. It was normal for them to quarrel with each other. The respondent picking up selective conversation and projecting the petitioner as cause for the death of the deceased is motivated. Further, it is stated that the petitioner's conversation was available in the mobile phone of the deceased which was seized from the scene of occurrence on 07.04.2020. There is no material to show that how the voice recording in the mobile phone was reiterated whether the mobile phone was produced to the Court immediately and thereafter sent to the forensic lab, the authenticity of the recordings are highly doubtful, the defacto complainant categorically made complaint against the Station Writer of the Kattur Police Station. The harassment to his daughter was from the day of her joining in the respondent police station and the harassment was continuous. On the previous day ie., on 06.04.2020 the

deceased spoke to her family members and with the local residence wherein she has not mentioned anything with regard to the petitioner. Thus, the entire investigation is clouded with mystery.

4.The learned counsel for the petitioner further submitted that the respondent police to save the other policemen of the police station have falsely implicated the petitioner and selected version of conversation alone are projected against the petitioner cited the reason for the death of the deceased. The petitioner hailing from the poor family had joined the police department and got training in the year 2018 but he was not given posting, recently he was given posting and he is serving in the district of Villupuram. Due to Covid-19, the official orders are yet to be issued. Due to the petitioner's confinement in this case, the petitioner's future in police service is now at cross roads, in all probabilities citing this case the petitioner would be removed from the service and the petitioner dream of serving in the police department would be shattered and he has been put to untold misery and sufferings. Further, the respondent police had sofar conducted the investigation in a clouded manner to save the police personals attached to the police station and the petitioner is made

as a scape goat in this case and prays for bail.

5.The learned Additional Public Prosecutor appearing for the respondent submitted that in this case, the victim is a Women Police Constable who joined the police department in the year 2018 and she joined the respondent police station on 11.09.2019 and she had been serving there. Since her family was at Villupuram, she was alone in a rental house, which was 500 meters away from the police station. Earlier to the occurrence, she had availed medical leave from 23.03.2020 and thereafter, she had joined duty on 02.04.2020. On 06.04.2020 at about 08.30 p.m., after her duty she had gone back to her house. On the next day she did not report to the duty. At that time, the petitioner/accused herein called one Purushotaman, Police Constable of Kattur Police Station informed him that the previous day night the petitioner and deceased were talking over the phone, at that time they had a quarrel and he abused and shouted at her. On 07.04.2020 at about 08.30 a.m., when the petitioner/accused attempted to call the deceased, her phone was switched off. Hence, he informed Purushotaman, Police Constable to find out the well being of the deceased. In the mean while, the villagers

found that the deceased was found hanging in the bathroom using her shawl. Thereafter, the said Purushothaman, Police Constable along with another Police Constable Deva went to the scene of occurrence broke open the door and found the deceased was hanging and she was brought down and sent to the Government Hospital, Ponneri and postmortem was conducted. It is found the death was due to hanging. The respondent police on registration of complaint, came to the scene of occurrence, prepared Observation Mahazar, Rough Sketch, examined the witnesses present there and also seized the Vivo Mobile Phone of the deceased from the scene of occurrence. Thereafter, during investigation the recording in the mobile phone of the deceased was retrieved.

6.From the recorded conversation, it is found that the petitioner/accused was the person who lastly spoke to her and they had a fight, the deceased was using fowl language and the petitioner made derogatory remarks against the deceased which was the reason for the deceased committing suicide by hanging herself. Thereafter, the accused had come to Kattur near the house of the deceased to find out any material against him. At that time, the petitioner was arrested thereafter

he confessed and mobile phone from him was seized and thereafter, he was remanded to judicial custody. The petitioner/accused was arrested only on 31.05.2020, the investigation in this case reveals that it is an unnatural death. He fairly submitted that the case was not referred to the Revenue Divisional Officer for enquiry and strongly opposed for granting of bail.

7.Considering the submissions on both sides, this Court sought some clarifications, since doubts arouse in the manner in which the investigation has been carried out. Taking into consideration that the petitioner/accused is a Police Constable and the deceased is a Women Police Constable and the father of the deceased (defacto complainant) specifically made a complaint against the Station Writer of the police station on the continuous harassment faced by his daughter right from the day of she joining the respondent, this Court had summoned the case diary. On a perusal of the case diary, this Court finds that on 07.04.2020, the respondent police after the receipt of the complaint from the defacto complainant at about 6.00 p.m., visited the scene of occurrence at about 7.15 p.m., prepared Observation Mahazar, Rough Sketch and conducted

inquest, enquired the witnesses and sent the body for post-mortem. On 07.04.2020, 4 witnesses were enquired viz., Ranjitha-Women Police Constable, Purushotaman-Police Constable, Deva-Police Constable and Vennila neighbour of the deceased.

8.From the statement of Ranjitha-Women Police Constable, it is seen that Karthika joined duty on 11.09.2019 in the respondent police station, the love affair between the deceased and the petitioner and their frequent quarrel and the petitioner using abusive language which were unbearable by the deceased. From the statements of the Police constibale Purushothaman, it is seen that Karthika had earlier informed her love affair with the petitioner and she was normal when she finished and left duty on 06.04.2020. On 07.04.2020 at about 08.30 a.m., the petitioner called Purushotaman, informed him about the previous day fight, he had with the deceased. Purushotaman and Deva went to the scene of occurrence, broke open the door and brought down the deceased body.

9.From the statement of Neighbour Venilla, it is found that on 06.04.2020 at about 08.40 p.m., the deceased was found in a sober mood.

The inquests was held on 07.04.2020 between 08.00 a.m., and 10.00 a.m., The panchayat opined as follows:-

“ஏதோ மனஉளைச்சல் காரணமாக தூக்கிட்டு
இறந்துவிட்டார்”

10. Thereafter the body was sent for postmortem and postmortem was conducted, vital organs sent to forensic lab. From the postmortem, it is found that the death was due to hanging. On 07.04.2020, the mobile phone of the deceased namely Vivo was seized from the scene of occurrence. On 10.04.2020, the respondent police retrieved telephonic conversations from the mobile phone of the deceased. From the telephonic conversation between the petitioner and the deceased the respondent police found that the petitioner is the reason for the deceased committing suicide. The defacto complainant was called telephonic conversation was played to him. Thereafter, the defacto complainant realized that the suicide was due to the petitioner's telephonic call and not as mentioned by him in the complaint about the Station Writer, giving harassment to his daughter. The deletion report in this regard was filed before the concerned Court, likewise Section alteration report from

Section 174 of Cr.P.C to Section 306 of Cr.P.C was filed. Thereafter, on 31.05.2020, the accused/petitioner was found near the house of the deceased, he was arrested, confession recorded and his grey colour Honor mobile phone was also seized. From the confession, it is found that the accused/petitioner deleted the conversations between him and the deceased, thereafter, he was remanded to judicial custody and investigation is in progress.

11.It is seen from the case diary, nothing is recorded to show whether the seized mobile phone was produced before the Court and thereafter received back for investigation. There is nothing to show the mobile phone has been sent for forensic lab. In the compact disk, it is found there are six or seven conversation. The compact disk does not show the entire conversations with date and time. The defacto complainant had specifically stated about the harassment and torture by the writer of the police station, nothing is available to show any steps taken for collecting the call details of the petitioner, the Station Writer Subramanian, Purushotaman-Police Constable, Janarthanan-father of the deceased and the other police persons attached to the police station, the

call details of these persons are vital to rule out the possibility of any other reason and to find out the actual truth. The conversation date between the petitioner and the deceased as found in the compact disk. From the conversation it is seen, harsh and vulgar exchange of words between the petitioner and the defacto complainant. The usage of the words depends upon both the callers and recipients, level of relationship and conversation. The usage of words alone will not denote any harassment and from the conversations, it is not found in what manner the petitioner has the deceased to end her life. Further, the deceased had committed suicide and it an unnatural death, there is no material to show whether any inquest by the Executive Magistrate, nothing is found in the case diary. Further the statements recorded so far primarily is to excludes the name of the Station Writer namely Subramaniam, SSI, since he was on medical leave from 21.03.2020 to 12.05.2020 and of the other police persons attached to the Police Station.

12.The defacto complainant specific complaint is that from the date of his daughter joining the police station, she has been harassed by the Station Writer. In view of the same, the call records of the police

personals not only of the Station Writer the entire police persons of the respondent police station ought to be obtained and studied further the executive magistrate inquiry conducted and report to be obtained. These aspects are lacking in the investigation, this Court feels that a thorough and detailed investigation is needed in this case and so far the investigation seems to be conducted in cavalier manner not taking investigation on the right direction as required. The slackness in collecting materials and evidences which is the requirement of proper investigation in these kind of cases created some doubt. Moreso, when the deceased is a Women Police Constable the accused is a Police Constable and the allegations are made against the police persons attached to the respondent Police Station. Further, it is not to be a lost site that the petitioner is a police constable who joined duty he is yet to get confirmation.

13. In view of the same, the continuation of the investigation by the respondent police would not be proper. Hence this Court directs the respondent police to place the entire case diary before the Superintendent of Police, Thiruvallur District. Thereafter, the Superintendent of Police,

Thiruvallur District is to nominate a Investigating Officer not below the rank of Deputy Superintendent of Police, except the Deputy Superintendent of Police, Ponneri Range. The Superintendent of Police to monitor the case periodically. These directions are given by invoking inherent power of this Court in the interest of justice.

14. Considering the submissions and on perusal of the materials available on record, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on their release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***;

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

15. With the above directions, this Criminal Original Petition is ordered.

23.06.2020

Internet: Yes/No

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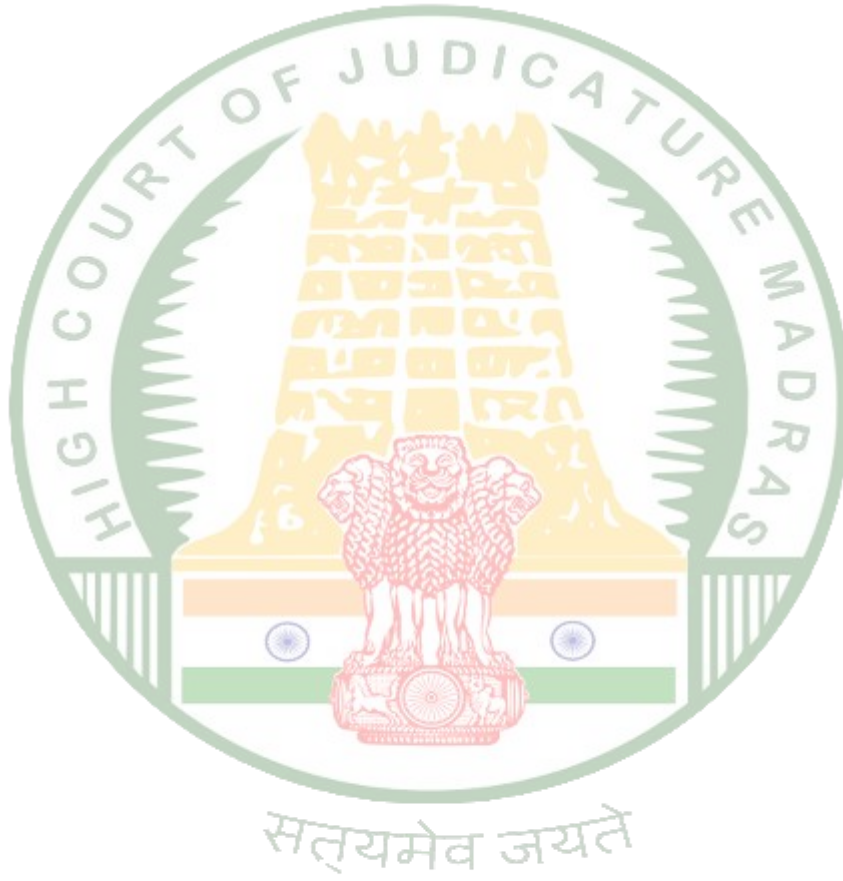
1. The learned Judicial Magistrate No.II,
Ponneri.

2. The Superintendent,
Sub Jail, Ponneri.

3. The Inspector of Police,
Kattur Police Station,
Tiruvallur District.

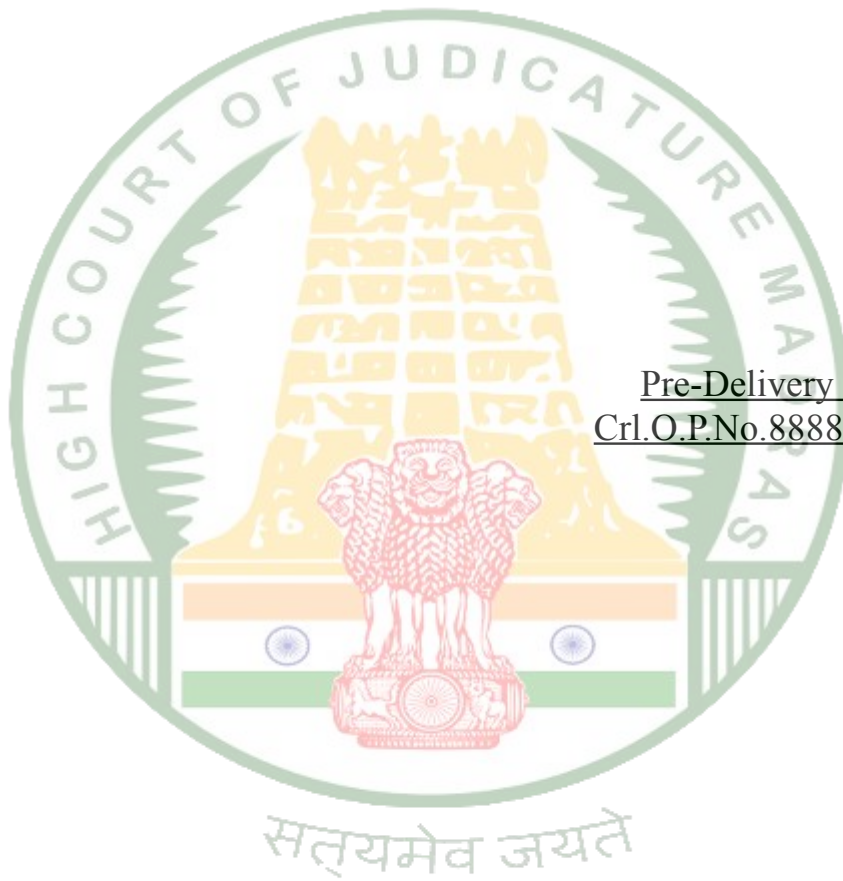
4. The Public Prosecutor,
High Court of Madras.

5.The Superintendent of Police,
Thiruvallur.



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M.NIRMAL KUMAR,J.
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