

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED 20.02.2020  
CORAM  
THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.OP.No.25348 of 2019  
and  
Crl.MP.Nos.13544 and 13545 of 2019

Sakkubay @ Sathya

... Petitioner/Accused

Vs.

1. State Rep.by  
The Inspector of Police,  
Meensuruti Police Station,  
Ariyalur District. ...Respondent/Complainant

2. Suresh ... Respondent/  
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records in S.C.No.66 of 2019 on the file of the Fast Track (Mahila Court), Ariyalur, Ariyalur District and quash the same.

For Petitioner : Mr.R.Amardeep  
for M/s.Thomas T Jacob

For Respondents : Mr.C.Raghavan  
Government Advocate (Crl.Side)  
for R1

: M.Kavi Kannan for R2

ORDER

This petition has been filed by the accused to quash the proceedings against her in S.C.No.66 of 2019 on the file of the Fast Track Mahila Court at Ariyalur.

2. The learned counsel for the petitioner has submitted that based on the complaint lodged by the second respondent herein, the case was originally registered on 03.06.2018 in Crime No.138 of 2018 under Section 173 of Cr.P.C. He further submitted that subsequently, the first respondent has altered

the provisions of law under Section 306 of IPC and arrested the petitioner and remanded to judicial custody and thereafter, the petitioner was released on bail. He further submitted that in the FIR, it is stated that the petitioner has entertained a suspicion as the deceased Saranya was having illegal intimacy with her husband and hence, the petitioner scolded the deceased and told her "go and die" and hence, the said deceased Saranya committed suicide by hanging herself. He further submitted that in the statement recorded under Section 161 (3) of Cr.P.C also, the same averments made. He further submitted that merely because, the petitioner has used the words "go and die" it could not be said that the petitioner has committed the offence under Section 306 of IPC.

3. In support of the aforesaid contentions, the learned counsel for the petitioner has relied upon following decisions:

- (i) Ramesh Kumar Vs. State of Chhattisgarh (2001) 9 SCC 618
- (ii) Sanju Alias Sanjay Singh Sengar Vs. State of Madhya Pradesh (2002) 5 SCC 371
- (iii) Swamy Prahaladdas Vs. State of Madhya Pradesh 1995 Supp(3) SCC 438: 1995 SCC (Cri)943

4. The learned counsel for the second respondent has submitted that the petitioner herself has admitted in her confession statement which was recorded by the first respondent that since she entertained a doubt that the deceased was having illegal intimacy with her husband, she scolded the deceased by saying " go and die". He further submitted the conduct of the petitioner caused mental depression and committed suicide. Further, in the FIR and in the statement recorded under Section 161(3) Cr.P.C, the second respondent has categorically stated that the petitioner has scolded the deceased by saying that she is having illegal intimacy with the petitioner's husband and also asked her "go and die" and therefore, the provisions of 306 IPC would attract and hence, he opposed to allow this petition.

5. The learned Government Advocate (Crl.Side) who is appearing for the first respondent has submitted that he adopted the arguments of the learned counsel for the second respondent/defacto-complainant and also prayed to dismiss this petition.

6. In Ramesh Kumar Vs. State of Chhattisgarh (cited supra) the Hon'ble Supreme Court in Paragraph No.20 has held as follows:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do " an act". To satisfy the requirement of instigation though it is not necessary

that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an investigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation".

7. In Sanju Alias Sanjay Singh Sengar Vs. State of Madhya Pradesh (cited supra) the Hon'ble Supreme Court in Paragraph No.6 has held as follows:

"6. Section 107 IPC defines abetment to mean that a person abets the doing of a thing if he firstly, instigate 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".

8. From the aforesaid decisions, it is clear that instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence.

9. In Swamy Prahaladdas Vs. State of Madhya Pradesh (Cited Supra) the appellant was charged for an offence under Section 306 IPC on the ground that the appellant during the quarrel is said to have remarked to the deceased "to go and die". The Hon'ble Supreme Court was of the view that mere words uttered by the accused to the deceased "to go and die" were not even prima facie enough to instigate the deceased to commit suicide.

10. In this case, from the averments made in the FIR and the statement recorded under Section 161(3) Cr.P.C it cannot be said that the petitioner has intentionally aids the deceased to commit suicide. In the FIR, the second respondent has stated that the petitioner indulged with quarrel with the deceased on suspicion that the deceased was having illegal contact with the petitioner's husband and remarked to the deceased "to go and

die". Further, he has stated that for the past few days, the deceased was telling that because of the petitioner's act, she was humiliated and due to the same, she committed suicide. Except the said allegations, no other allegations made against the petitioner. In view of the aforesaid decisions, merely because the petitioner has remarked to the deceased to go and die, the provisions of Section 306 of IPC would not attract.

11. Though the learned counsel for the second respondent has contended that the petitioner herein gave a confession statement before the Police admitting the offence, the said confession statement is inadmissible in evidence.

12. For the aforesaid reasons, this court is of the view that even if the allegations made in the FIR and the charge sheet are taken as true at face value, the petitioner cannot be convicted for the offence under Section 306 IPC. Hence, this court is of the view that the continuance of the proceedings against the petitioner would amount to abuse of process of court.

13. For the aforesaid reasons, this Criminal Original Petition is allowed. The Proceedings against the petitioner in S.C.No.66 of 2019 on the file of the Fast Track Mahila Court, Ariyalur, Ariyalur District are quashed. Consequently, connected miscellaneous petitions are quashed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

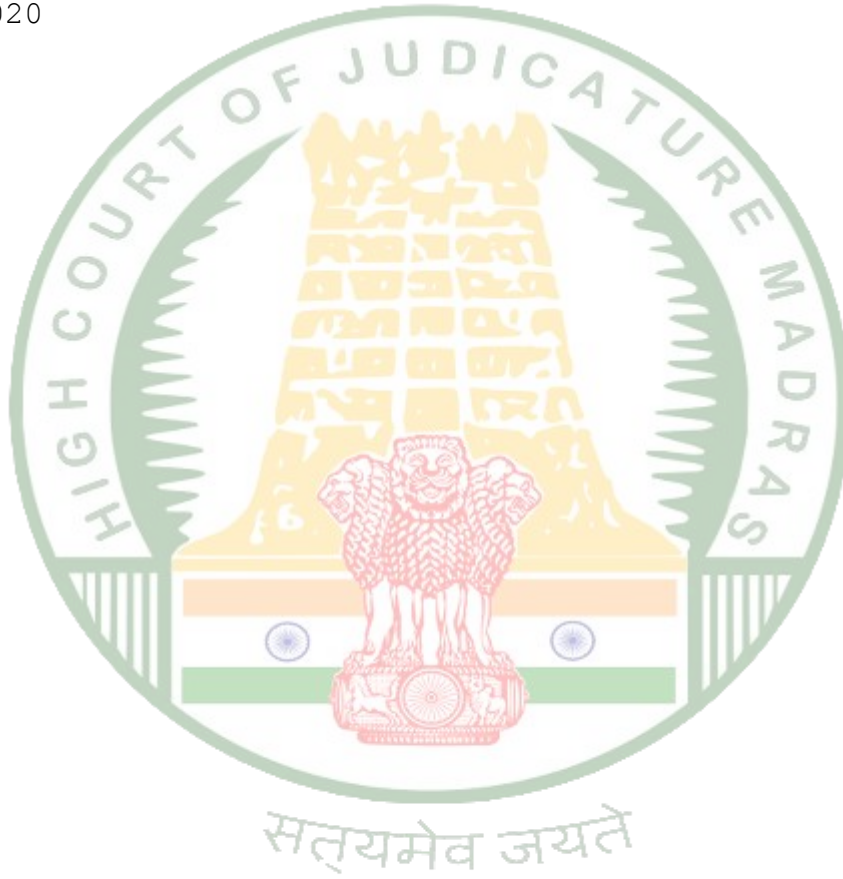
1. The Fast Track (Mahila Court),  
Ariyalur, Ariyalur District.
2. The Inspector of Police,  
Meensuruti Police Station,  
Ariyalur District.
3. The Public Prosecutor,  
Madras High Court,  
Chennai.

+1 cc to Mr.Thomas T.Jacob Advocate srl4963

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