



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD)No.4882 of 2020

and

Crl.M.P. (MD)No.2822 of 2020

WEB COPY

Selvaraj

... Petitioner / Accused (sole)

Vs

1.State represented by,
Inspector of Police,
Palanichettipatti Police Station,
Cr.No.254/2019,
Theni District

... Respondent / Complainant

2.Annalakshmi

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in Cr.No.254 of 2019 for offences under Section 174 Cr.P.C., @ 306 of IPC on the file of the Inspector of Police, Palanichettipatti Police Station, Theni District and to quash the same.

For Petitioner : Mr.J.Senthil Kumar

For R1 : Mr.A.Robinson

Government Advocate (Crl.side)

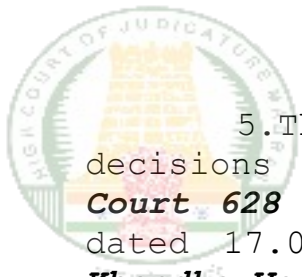
ORDER

The petitioner is figuring as accused in Crime No.254 of 2019 registered on the file of the first respondent for the offence under Section 306 of IPC. To quash the same, this petition has been filed.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.side).

3.Crime No.254 of 2019 was registered under Section 174 of Cr.P.C., based on the complaint given by the second respondent Anna Lakshmi. Later, FIR has been altered and the offence under Section 306 of IPC was added based on the alteration report submitted by the Deputy Superintendent of Police, Theni Division.

4.The learned counsel appearing for the petitioner submitted that the deceased Ramaraj had proposed to a relative of the petitioner and the same was questioned by the petitioner. There arose a wordy altercation between the petitioner and the deceased. The deceased had actually attacked the petitioner and hence, the petitioner lodged a police case against the deceased. It appears that later, the deceased had committed suicide. The petitioner had no intention whatsoever that the deceased Ramaraj should commit suicide or he should die. The petitioner cannot be blamed for the subsequent occurrence.



5.The petitioner's counsel placed reliance on the two decisions of the Hon'ble Supreme Court, namely **(2010) 8 Supreme Court 628 (Madan Mohan Singh Vs. State of Gujarat)** and the order dated 17.05.2018 made in **Crl.A.No.765 of 2018 (Vaijnath Kondiba Khandke Vs. State of Maharashtra and another)**.

6.The learned Counsel pointed out that in both the cases, the Hon'ble Supreme Court, after holding that the essential ingredients of the offence under Section 306 of IPC are absent, quashed the FIR. The learned Counsel called upon this Court to follow the ratio laid down in those two decisions and quash the impugned FIRs also.

7.I am not persuaded by the aforesaid submissions made by the learned counsel appearing for the petitioner.

8.The learned Government Advocate (Crl.side) pointed out that the final report in this case has since been made ready. A mere perusal of the materials on record indicates that the petitioner Selvaraj and the defacto complainant Anna Lakshmi hail from the same community. They are also relatives. Anna Lakshmi had a son by name Ramaraj. He had proposed to one Mathumitha who is also said to be a relative of the petitioner. The petitioner herein had questioned the relationship between Ramaraj and Mathumitha.

9.The specific case of the prosecution is that the petitioner lodged criminal case against Ramaraj, leading to registration of Crime No.227 of 2019 registered on the file of the Palanisettipatti Police Station for the offences under Sections 294(b), 324, 506(2) of iPC. Ramaraj was arrested and remanded to custody. Ramaraj was granted bail. When he was complying with the bail conditions, the petitioner is said to have spread rumours about Ramaraj in the Village. In the statement of Anna Lakshmi recorded under Section 161 of Cr.P.C, it has been mentioned that Selvaraj was spreading all kind of misinformation about Ramaraj and that, as a result of the activities of the petitioner, Ramaraj was pushed to the extent of committing suicide. Anna Lakshmi in her statement states that she had counselled her son not to feel depressed on account of the activities of the petitioner. In this back ground, on 23.05.2019, at about 06.00 a.m., Ramaraj was found to have consumed poison. He was admitted to the Hospital. But he succumbed later.

10. After carefully going through the materials on record, I am of the view that there is a prima facie case against the petitioner herein attracting the offence under Section 306 of IPC. In any event, it is not for this Court to appreciate the defence version at the time of considering the challenge to the version to the FIR. The Hon'ble Supreme Court, vide order dated 13.02.2020, in **Crl.A.No.20 of 2010 (Padma Mishra Vs. State of Uttarkhand and another)** held that the High Court ought not to adjudicate the correctness of the allegation in an FIR. Of-course, in exceptional cases, the High Court can intervene if the allegations made in the FIR *ex facie* do not disclose any offence at all. In the case on hand, the defacto complainant has specifically alleged that on account of the acts committed by the petitioner herein, her son Ramaraj was driven to commit suicide.



11.The learned Government Advocate (Crl.side) also drew my attention to the order dated 28.11.2018 made in **Crl.A.No.7933 of 2018 (Narayan Malhari Thorat Versus Vinayak Dearao Bhagat Vs. State)**. That was an appeal filed by the State challenging the order passed by the High Court quashing an FIR. The Hon'ble Supreme Court held that when the investigation was yet to be completed and charge sheet was yet to be filed, the High Court ought not to have gone into the aspect whether there was requisite mental element or intention on the part of the accused. That was also a case arising under Section 306 of IPC.

12.Respectfully following the aforesaid recent decisions of the Hon 'ble Supreme Court, I am of the view that it is premature on the part of the petitioner herein to move this Court for quashing. I find no merit. I am of the view that the inherent powers of this Court are not to be exercised in a case of this nature. The Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
Palanichettipatti Police Station,
Theni District

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

+1 CC to M/s.J.SENTHIL KUMAR, Advocate (SR-12621[F]

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SMA/03/06/2020/3P/4C