



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.7619 of 2020

and

CRL MP(MD)Nos.3650 & 3651 of 2020

WEB COPY

1.Balamurugan

2.Muthu

... Petitioners / Accused Nos.1&2

Vs.

1.State represented by the

Inspector of Police,

Salaigrammam Police Station,

Salaigrammam, Illayangudi Taluk,

Sivagangai District.

Cr.No.22/2017

... 1st Respondent / Complainant

2.Alagu

... 2nd Respondent / Defacto Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in S.C.No.103 of 2017, on the file of the Fast Track Mahila Court, Sivagangai and quash the same.

For Petitioners : Mr.PR.Boomee Rajan

For Respondent-1 : Mr.S.Chandrasekar

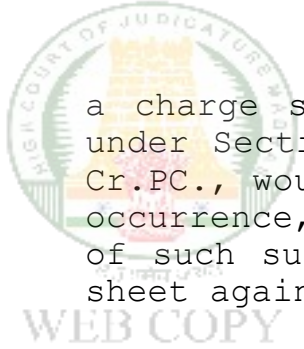
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking the relief to call for the records pertaining to the charge sheet in S.C.No.103 of 2017, on the file of the Fast Track Mahila Court, Sivagangai and quash the same as illegal.

2. The case of the petitioners is that the petitioners 1 and 2 are arrayed as A1 and A2 in the above referred Sessions Case. Based on the complaint given by the 2nd respondent, the first respondent police initially had registered the case under Section 174 of Cr.P.C., and subsequently, the same has been altered as the offence punishable under Section 306 IPC. Now, after completion of the investigation, charge sheet has been filed before the jurisdictional Magistrate and thereafter, after completing the committal proceedings, the case was pending against the petitioners, before the Additional Mahila Court, Sivagangai in S.C.No.103 of 2017.

3. The learned counsel appearing for the petitioners would submit that without any iota of evidence, the first respondent filed



a charge sheet against the petitioners for the offence punishable under Section 306 IPC. The statement recorded under Section 161 of Cr.PC., would disclose the fact that at any point of time before the occurrence, the petitioners herein have not abetted the commission of such suicide towards the deceased and therefore, filing charge sheet against the petitioners for the said offence is illegal.

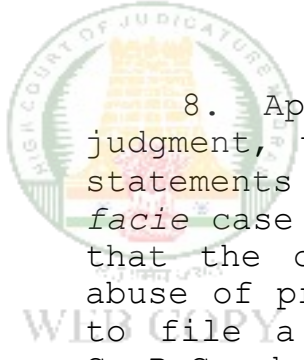
4. The learned Additional Public Prosecutor appearing for the first respondent, on instructions, would submit that all the 161 Cr.P.C. statements given by the witnesses would clearly disclose the fact that before the occurrence, the first petitioner, being the husband of the deceased, and the 2nd petitioner being in-law abets the commission of such suicide. He would further submit that during the time of conducting investigation, the Revenue Divisional Officer had also come to the conclusion that the death is due to cruelty made by the petitioners.

5. Upon considering the rival submissions made by either side, it is true that in the statement given by the Revenue Divisional Officer, he had suspected that there may be a chance for dowry harassment. In the said circumstances, the relatives of the deceased are all gave the statements that before 15 days from the date of occurrence, the first petitioner came from Singapore and thereafter, he assaulted the deceased without any reasons. Further, a Panchayat was conducted in respect to the dispute having by the first petitioner and the deceased. So, on culling out the entire circumstances reveals the fact that cruelty is attributed against the deceased before the commission of the offence.

6. In the said circumstances, the truthfulness of statements given by the witnesses have to be tested only during the time of trial.

7. In this context, it is relevant to see the judgment of our Hon'ble Apex Court in **Janata Dal Vs. H.S.Chowdhary and others** reported in **1992 (4) SCC 305**, wherein it has been held as follows:-

"132. The criminal courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. The powers possessed by the High Court under section 482 of the Code are very wide and the very plentitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles."



8. Applying the principles set out in the above-referred judgment, this Court is of the view that in the present case, the statements recorded by the investigation officer disclose a *prima facie* case as against the petitioners. Therefore, it cannot be said that the charge sheet filed by the respondent police is a clear abuse of process of law. However, the petitioners are at liberty to file a petition before the trial Court under Section 239 of Cr.P.C., before framing the charges.

9. Accordingly, with the above observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Fast Track Mahila Court,
Sivagangai.

2. The Inspector of Police,
Salaigrammam Police Station,
Salaigrammam, Illayangudi Taluk,
Sivagangai District.

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

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