



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.966 of 2015
and M.P.Nos.1 & 2 of 2015

Manivannan

...Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
Kayarlapath Police Station,
Ariyalur District.

...Respondent/Complainant

PRAYER: Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to set aside the order of framing of charge dated 04.08.2015 made in S.C.No.54 of 2015 on the file of the Fast Track Mahila Court, Ariyalur.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.S.Vinoth Kumar
Public Prosecutor

O R D E R

(This case has been heard through video conference)

The accused is the revision petitioner herein.

2.The respondent police has filed a final report for the alleged offence under Sections 498(A) and 304(B) of IPC. The case has been taken on file and made over to the Fast Track Mahilar Court, Ariyalur, in S.C.No.54 of 2015. When the matter was taken up for framing of charges it appears that the learned Sessions Judge has framed the charge under Section 304 of IPC in respect of death of the father in law of the revision petitioner herein in Crime No.197 of 2003. Challenging the same, this Criminal Revision Case has been filed.

3.Heard the respective learned counsels and perused the materials placed on record.

4(a).After perusing the records, the case of the prosecution as per the defacto complainant viz., Suseela is that her daughter viz., Kuralarasu, who has left the parental home due to the love affair, got married with the petitioner herein and



living separately as the defacto complainant family had not accepted for their marriage and they have no good terms with them. At his juncture on 26.11.2013 at about 11.45 p.m., the daughter of the defacto complainant viz., Kuralarasi has consumed pesticide and she was taken to hospital at Thanjavur for treatment, in failure of the treatment, she died at Frontline Hospital, Thanjavur on 02.12.2013. Hence, the complaint was lodged on 02.12.2013. Therefore, a case was registered under Section 174(3) of Cr.P.C in Crime No.197 of 2013.

4(b).Thereafter RDO enquiry was conducted, who had filed the report with specific finding that the deceased Kuralarasi died due to the wordy quarrel made by the petitioner herein and thereby, she consumed poison and died. Similarly, the villagers also been enquired, they have categorically stated that there is no dowry demand or harassment by the petitioner at any point of time and they were living peacefully.

4(c).On 26.11.2013, the petitioner along with his wife went to her parental home and thereby, a wordy quarrel took place. While so, hand scuffling was took place, subsequently on 27.11.2013, the father-in-law of the petitioner viz., Palanisamy died due to the ailments. With all the said averments the respondent police filed the final report for the offences punishable under Section 498(A) and 304(B) of IPC.

5(a).It is no doubt true that the final report is within the domine of the investigation officer while framing of the charge is within the domine of the Sessions Judge. However, unless there is a material placed before the Court, the learned Sessions Judge cannot read between the lines and assume certain facts and framed charge for the offence under Section 304 of IPC.

5(b).To frame the charge under Section 304 of IPC, the basic document required is post mortem certificate, so as to infer the cause of the death. Admittedly, the basic document viz., post mortem certificate, to frame the charge under Section 304 of IPC was not available along with charge sheet it is a basic document to prove the cause of death.

6.On a perusal of the statement of witness recorded under Section 161(3) of Cr.P.C, there is no whisper of material regarding alleged factum of death of Palanisamy, which said to have been caused by the petitioner. In the absence of any material either by way of oral evidence or document evidence, such a charge for the offence under Section 304(b) cannot be framed.



7.The entire records including 161(3) statements of all the witnesses does not even implicate or stated about the death of Palanisamy caused by the petitioner and the basic document to frame charge under Section 304 of IPC viz., post-mortem certificate was not available before the Court. Therefore, including the said charge against the petitioner is nothing but inventing a new case invoking Section 228 of Cr.P.C by the Trial Judge is unsustainable in law.

8.Hence, the charge framed by the learned Judge, Fast Track Mahila Court, Ariyalur, in S.C.No.54 of 2015, in respect of the accused for the offence under Section 304 of IPC alone is hereby stuck off and stands quashed and in respect of charges No.2 and 3 for the alleged offence under Section 498(A) & 304(B) of IPC, same are sustained and charges are permitted to re-arrange in proper chronological order. Accordingly, this Criminal Revision Case stands allowed to the limited extent as indicated above. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Fast Track Mahila Court,
Ariyalur.
- 2.The Inspector of Police,
Kayarlapath Police Station,
Ariyalur District.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.C.Prabakaran, Advocate Sr No.50465

Cr1.R.C.No.966 of 2015

SR II (CO)
PR (10/11/2021)