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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.8034 OF 2017

AND

CRL.M.P.NO.5802 OF 2017

Aruchamy
S/o.Karuppusamy Chettiyar

... Petitioner/Accused 5

Versus

1. State represented by
The Inspector of Police,
Kundadam Police Station
Thirupur District
(Crime No.317 of 2009)

2. C.Angumani

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records and quash the proceedings in P.R.C.No.9 of 2015 on the file of the Judicial Magistrate, Tharapuram, Thirupur District in Crime No.317 of 2009.

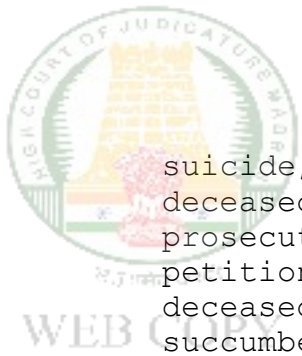
For Petitioners ... Mr.A.K.Sridharan

For Respondent ... Mr.S.Vinoth Kumar
Govt. Advocate (Crl.side) for R1

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.9 of 2015 pending on the file of the Judicial Magistrate, Tharapuram, Thirupur District.

2. The crux of the prosecution case is that the deceased, who is the son of A1, was residing separately and on the date of occurrence, the accused came to the house of the deceased, abused him and threatened him to consume poison and commit



suicide, otherwise, he will kill him, pursuant to which the deceased consumed poison. It is further alleged by the prosecution, through the materials collected, that the petitioner/accused also joined together and allegedly abused the deceased, due to which he was forced to take poison and succumbed to death.

3. Heard the learned counsel for petitioners and the learned Government Advocate (Crl.side) appearing on behalf of the first respondent.

4. The main contention of the learned counsel for the petitioner is that there is no materials available to prosecute the accused for abetment and as per the Viscera report, no poison is detected and death by taking poison itself is not at all proved. The learned counsel for the petitioner further contended that mere uttering of words 'go and die' will not constitute the offence of abetment or incitement to attract the offence under Section 306 IPC. Hence, it is his contention that no materials available on record to proceed as against the petitioner/ accused.

5. On a perusal of the records, this Court finds that though the nature of the poison consumed is not clear, the doctor's statement indicates that the death was due to poison. Whether the alleged threat made by the accused would amount to abetment or incitement could be decided during the course of trial, only after appreciation of evidence. Merely, because in some of the cases the Courts have held that mere uttering the words 'go and die' would not constitute an offence, the same cannot be applied mechanically to the case on hand. Every case has to be decided on its own facts and circumstances. The specific word uttered against an individual would not amount to abetment or incitement, but the same can drive the other person. These are depends upon the individual perception or individual behaviour of the parties and every aspect has to be seen in the context of the conduct and behaviour of the people in the society. This could be proved only during the course of trial.

6. In such view of the matter, this Court is of the view that while exercising jurisdiction under Section 482 Cr.P.C, this Court cannot come to a conclusion whether offence as alleged by the prosecution has been made out or not, at this stage.



Accordingly, this Criminal Original Petition is dismissed. The trial Court shall proceed with the trial and dispose of the matter as expeditiously as possible. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Judicial Magistrate,
Tharapuram, Thirupur District.
2. Do Through The Chief Judicial Magistrate,
Thirupur District.
3. The Inspector of Police,
Kundadam Police Station,
Thirupur District.
4. The Public Prosecutor,
Madras High Court,
Chennai.

Crl. O.P. No.8034 of 2017 and
Crl. M.P.No.5802 of 2017

KSM(CO)
RLP(16/12/2021)