



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 05.07.2021

Delivered on: 27.07.2021

CORAM

WEB COPY

THE HONOURABLE **MR. JUSTICE G. ILANGO VAN**

CrI.O.P. (MD)No.8763 of 2021

and

CrI.M.P. (MD)Nos.4493 & 4494 of 2021

D.Ramanathan

... Petitioner

Vs.

1.The State Rep. by
The Inspector of Police,
Narikudi Police Station,
Virudhunagar District.
(Crime No.99 of 2018)

2.S.Mariammal

... Respondents

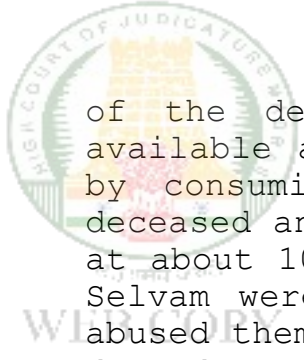
Prayer : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in connection with the charge sheet in P.R.C.No.17 of 2020 on the file of the learned Judicial Magistrate, Aruppukkottai, Virudhunagar District and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.G.Thalaimutharasu

For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor**ORDER**

This criminal original petition has been filed to quash the proceedings in P.R.C.No.17 of 2020 on the file of the learned Judicial Magistrate, Aruppukkottai, Virudhunagar District.

2.The case of the prosecution as per the final report is that the defacto complainant is the wife of the deceased Selvam. He was closely associated with the second accused. The deceased Selvam out of friendship, gave 8 sovereigns of gold jewels of his wife to the second accused for obtaining loan for his educational purpose. A1 pledged the same in his name along with one Jone in the Bharatha State Bank, Thiruchuli. The amount was not repaid. Hence, it was demanded back. But, A1 in collusion with A2 to A4, conspired to cheat the deceased Selvam. In spite of repeated demand, the same was not returned. Therefore, the deceased Selvam was under mental distress. On 02.06.2018, at about 08.00 am., A3 came to the house



of the defacto complainant, when the deceased Selvam was also available and abused them in filthy language and asked them to die by consuming poison. Similarly, A5 came to the house of the deceased and abused them and also asked them to die. On 03.06.2018, at about 10.00 am., the defacto complainant along with the deceased Selvam were about to prefer a complaint, A1 to A5 way laid them, abused them in filthy language and also threatened them that if they demand money, they will be killed. The second accused pushed the deceased Selvam and kicked him with legs and also assaulted him with wooden-log. The other accused also assaulted him. When the defacto complainant interfered, A1 pulled her saree and A5 abused her in filthy language and also pulled her down. On seeing the condition of the defacto complainant, the deceased Selvam cried. All the accused threatened the defacto complainant and the deceased Selvam with dire consequences that if they demand money back, the defacto complainant will be outraged. So because of this incident, the deceased Selvam was under depression and because of the instigation made by the accused persons, he committed suicide on 06.06.2018, at about 01.30 pm. Based on the complaint preferred by the defacto complainant, a case in Cr.No.99 of 2018 was registered on 08.06.2018 and investigation was taken up. After completion of investigation, final report was filed before the learned Judicial Magistrate, Aruppukkottai, Virudhunagar District, which was also taken on file in P.R.C.No.17 of 2020.

3. Seeking quashment of the above P.R.C.No.17 of 2020 , the petitioner herein, who is A5, filed this petition, mainly on the ground that none of the allegations mentioned in FIR attract the ingredients of the offences alleged against this petitioner. The learned counsel for the petitioner submitted that the petitioner is a practising Advocate and he is no way connected in the alleged offence. He is the relative of the second respondent and only to wreak vengeance, he has been wrongly arrayed as an accused.

4. Heard both sides.

5. Perusal of complaint and statement of witness that has been recorded in the course of investigation and materials collected show that some sort of transaction was going on between the deceased Selvam and the second accused. It appears that Selvam, out of friendship, in order to help A1, handed over 8 sovereigns of gold jewels, which belongs to the defacto complainant, for the purpose of raising fund, to meet out the expenses of A1. This fact has been spoken by all the witnesses, who have been examined during the course of the investigation. When the money was demanded back, it appears that trouble arose between the accused persons and the deceased Selvam. In pursuance of which the above said occurrence said to have taken place. Now, point for consideration is as to whether any overt act attributed against this petitioner either in the complaint or materials collected during the course of investigation is proved in the final report.



6.In the First Information Report itself, it is stated by the defacto complainant that this petitioner on 02.06.2018 came to her house and abused the defacto complainant in filthy language and also cursed the deceased to die by consuming poison. This is the first occurrence on 02.06.2018. The next occurrence is on 03.06.2018 at about 10.00 am., as per FIR, this petitioner along with other accused way laid the deceased and abused him in filthy language and this petitioner pushed him down. He also by joining hands with other accused persons made criminal intimidation. There is specific allegation against this petitioner even in FIR.

7.The contention of the learned counsel for the petitioner that only to wreak vengeance, he falsely implicated, cannot be considered at this stage. Witnesses, who have been examined during the investigation spoken about the overt act attributed against this petitioner. So the contention of the petitioner's counsel that no material available against this petitioner cannot be accepted. The veracity of this statement can be tested only in the course of trial.

8.The contention that none of the allegation mentioned in FIR attract the ingredients of Section 306 IPC against the petitioner also cannot be considered at this stage, because there is specific averments that only because of the incident took place on 03.06.2018, at about 10.00 am., when the defacto complainant was outraged and harassed before the eyes of the deceased, he committed suicide. Hence, a point for consideration as to whether this petitioner along with other accused persons created circumstances to commit suicide is a matter for consideration during trial. It is also settled principle that mere utterances of words that go and die by consuming poison may not amount to instigation and the same is not sufficient enough to attract 306 (I) IPC. Hence, this criteria to be decided only during the course of trial.

9.The contention that the petitioner is a practising Advocate and only to damage his reputation, a complaint has been given against him cannot be considered at this stage. The petitioner has to face the trial and the trial has to be taken its logical conclusion. This petition deserves dismissal. Accordingly, this petition is dismissed. Consequently, connected miscellaneous petitions are closed.

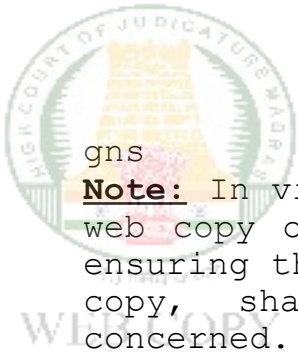
Sd/-

Assistant Registrar(CRL SIDE)

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/ /2021

Sub Assistant Registrar(CS)



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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 Judicial Magistrate,
Aruppukkottai,
Virudhunagar District.
- 2.The Inspector of Police,
Narikudi Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CrI.O.P. (MD)No.8763 of 2021
27.07.2021

VR (CO)
TR(06.08.2021) 4P 4C