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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 8860 of 2017
and
CrI.M.P.Nos.6380 and 6381 of 2017

R.Mohanakrishnan

...Petitioner/Accused No.2

Versus

State Rep. By
The Inspector of Police(L&O)
C3, Sevenwells Police Station,
Parrys, Chennai-600 001.
(Crime No.793 of 2015)

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records and quash the charge sheet in S.C.No.64 of 2016 pending on the file of V Additional Sessions Court at Chennai.

For Petitioner : Mr.N.Manokaran
for Mr.M.Ganeshan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate(CrI.Side)

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the charge sheet in S.C.No.64 of 2016 pending on the file of V Additional Sessions Court at Chennai.

2. The crux of the charge as per the prosecution is that the deceased has borrowed the loan from Gunasekaran and Mohanakrishnan. They insisted the deceased to repay the loan amount and the same created mental agony to him, thereby, he



committed suicide on 06.08.2015.

3. The present petitioner has been arrayed as A2 in S.C.No.64 of 2016. The learned counsel for the petitioner submitted that there is no materials available as against the present petitioner. The entire allegations found in the prosecution case is general in nature. Even the same was taken as a proof, it would not constitute any offence under Section 306 of IPC against the present petitioner. Hence, he prayed to quash the final report.

4. The learned Government Advocate(Crl.side) appearing for the respondent submitted that the accused has left a suicidal note, wherein the deceased endorsed that the petitioner and others have insisted him to repay the amount, which driven the deceased to commit suicide. He further submitted that as the final report has been filed, the same need not be quashed.

5. This Court has perused the entire materials available on record.

6. It is relevant to refer the judgment in 1992 SUPP (1) SUPREME COURT CASES - 335 STATE OF HARYANA AND OTHERS Vs. BHAJAN LAL AND OTHERS, wherein, the Hon'ble Apex Court has set out the following guidelines for quashing the complaint.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against



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the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there

is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7. From the said position, when the entire materials unearthed by the prosecution taken in the face value do not constitute any offence and still forcing the party to face the ordeal of the trial is nothing but abuse process of law. This Court can exercise its power under Section 482 of Cr.P.C to interfere with the final report. The entire final report and materials produced by the prosecution indicate that the deceased was in debt trap and he was unable to meet the situation to repay the amount, due to which, he was stressed and committed suicide on 06.08.2015. Moreover, the suicidal note left by the deceased is only general in nature and there is no specific overt act against the petitioner and there is no material available on record against the petitioners to proceed with the case. The statement of the deceased recorded by the respondent



police is also in the nature of dying declaration which do not implicate the present petitioner for the specific allegation. The statement of the deceased and the so called suicidal note do not implicate the present petitioner. Further, merely because the petitioner is said to have advanced certain amount and some other lender has demanded the deceased to repay the money, cannot be construed as an abetment to drive the person to commit suicide.

8. It is to be noted that the word abetment literally means instigates any person to do that thing. Instigating someone literally means to incite, provoke, urge or bring about by persuasion to do anything.

9. In the absence of any such incitement to drive the person to commit suicide or forcing the person to take such extreme step, merely the amount has been demanded by the lenders which resulted death of the person at the relevant point of time will not constitute offence under Section 306 of IPC. Even the entire materials unearthed by the prosecution do not show the proximity of the alleged demand of money and also about the death of the deceased.

10. In such view of the matter, as there is no materials available against this petitioner to constitute offence under Section 306 of IPC, still forcing him to face the ordeal of the trial is nothing but abuse process of law.

11. For the reasons aforesaid, following the ratio laid down in Bhajan Lal's case and R.P.Kapur's case (supra), this Court, in exercise of its inherent power under Section 482 of Cr.P.C., is inclined to quash the charge sheet. Accordingly, the charge-sheet filed against the petitioner in S.C.No.64 of 2016 pending on the file of V Additional Sessions Court at Chennai is quashed and this criminal original petition is allowed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

msv/nr



To

1. The V Additional Sessions Court,
Chennai.
2. The Inspector of Police (L&O)
C3, Sevenwells Police Station,
Parrys, Chennai-600 001.
3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.M.Ganeshan, Advocate, S.R.No.116

Crl. O.P. No. 8860 of 2017
and
Crl.M.P.Nos.6380 and 6381 of 2017

SR(CO)
SU(19/01/2022)