



Crl.O.P No.9720 of ----

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.9720 of 2021

Sadasivam

... Petitioner

Vs.

1. The State rep. by the
Inspector of Police,
Cuddalore N.T.P.S.

2. Uma
3. Ganesan
4. Valarmathi
5. Lakshmi
6. Loganayagi

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to order dated 22.01.2019 made in Crl.R.C. No.6 of 2018 on the file of the Principal Sessions Judge, Cuddalore confirming the order made in Crl.M.P. No.77 of 2018 dated 18.01.2018 on the file of Judicial Magistrate, Cuddalore-II, and set aside the same by allowing the Criminal Original Petition.



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For Petitioner : Mr. D.R.Arunkumar
for Ms.K.Gayathri

For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to call for the records relating to order dated 22.01.2019 made in Crl.R.C. No.6 of 2018 on the file of the Principal Sessions Judge, Cuddalore confirming the order made in Crl.M.P. No.77 of 2018 dated 18.01.2018 on the file of Judicial Magistrate, Cuddalore-II, and set aside the same.

2. The revision petitioner is the *de facto* complainant of the complaint in Cr. No.636 of 2012 filed under Section 174 Cr.P.C. The deceased is the son of the petitioner. After completion of investigation, the first respondent has closed the case by finding out that the deceased had committed suicide by self immolation. However, the revision petitioner protested by stating that the police has not investigated the case in a proper manner and according to him, it is a case of murder.

2.1 The petitioner filed a complaint under Section 156(3) Cr.P.C. and



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the same was forwarded to respondent police to register FIR and conduct investigation. The final report was filed by the first respondent police once again by stating that it is a case of suicide and there is no material available to make out a case under Section 302 IPC. Not being satisfied, the petitioner has filed a protest petition in Crl.M.P. No.77 of 2018 before the learned Judicial Magistrate No.II, Cuddalore and the said petition was also dismissed on 18.10.2018. Aggrieved over the dismissal, the petitioner has filed Crl.R.C. No.6 of 2018 before the learned District and Sessions Judge, Cuddalore and the same was also dismissed on 22.01.2019. Aggrieved by the order of dismissal, the present petition has been filed.

3. The learned counsel for the petitioner submitted that the first respondent police did not attempt to get any dying declaration from the deceased though he was alive for two days subsequent to the occurrence; the final report submitted by the police did not contain any materials to substantiate the same; hence the order of the learned Principal Sessions Judge, Cuddalore in Crl.R.C.No.6 of 2018 has to be set aside.

4. On perusal of the report of the first respondent, it is stated that the



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occurrence had taken place at Nagammal Kovil which is away from the house of brother of the wife of the deceased. The wife of the deceased was being beaten up by the deceased frequently after consuming alcohol. Frustrated with his conduct, his wife had gone out of the house and was at her brother's house. On the day of occurrence, at about 7.15 p.m., the deceased went to his wife's brother's house and asked her to come with him. Since she refused, the deceased went to a nearby temple (Nagammal Kovil) and poured petrol on himself and set fire on him. On hearing his scream, his wife and others went near him, but by that time he jumped into a canal. Thereafter he was admitted in the hospital and died subsequently. The report of the police was mainly on the basis of the statement given by the wife of the deceased.

5. According to the father of the deceased / petitioner, on 19.11.2016, the wife of the deceased along with her brother, brother's wife, sister and wife of her another brother came to the house of the deceased and assaulted him.

6. Even according to the petitioner, he did not witness the above occurrence. He only went to the police station on hearing the noise in order to see whether his son was available there. But he came to know later that his son



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had gone to fetch up his wife and children from his brother-in-law's house. Had the deceased was assaulted by his wife and her relatives, it is improbable that he had gone to his brother-in-law's house all alone to bring back his wife and children. The petitioner had gone to the Government Hospital on hearing that his son was in a very dangerous condition. All that the petitioner had said in his complaint are hearsay. No motive has been attributed against the private respondents. Under such circumstances, the first respondent had to believe the statement of the wife of the deceased.

7. The wife of the deceased had stated about the frequent quarrel between herself and the deceased and her inability to survive with the deceased. Even at the time of occurrence, his wife was at her brother's house.

8. The grievance of the petitioner is that no dying declaration was obtained from his son though he was informed that such a statement would be obtained from the deceased. He has not stated that his son had told him that the private respondents had set fire on him, but the police had refused to make arrangement to register the dying declaration of his son. So, the manner in which the petitioner had arrayed the private respondents who are all the



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relatives of the wife of the deceased would show that he is upset due to the death of his son and that he had given the private complaint out of frustration and feeling of revenge.

9. Without any ground materials to make out a case under Section 302 IPC, it is unnatural to expect the first respondent to file a report against the private respondents that they had committed the offence of murder. The learned Principal Sessions Judge had perused all the materials that have been filed along with final report and was pleased to accept the report only after due consideration. Hence, the order of the learned Principal Sessions Judge need not be interfered.

10. In view of the above, this Criminal Original Petition is dismissed and the order dated 22.01.2019 made in Crl.R.C. No.6 of 2018 on the file of Principal Sessions Judge, Cuddalore is hereby confirmed.

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Index : Yes/No
Speaking Order : Yes / No
bkn



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To

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1. The Inspector of Police,
Cuddalore N.T.P.S.
2. The Principal Sessions Judge, Cuddalore.
3. The Public Prosecutor
High Court of Madras.



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R.N.MANJULA, J.,

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