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Crl.O.P.(MD)No.4833 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.4833 of 2019

and

Crl.MP (MD)No.3001 of 2019

1.Selvam
2.Suresh Kannan : Petitioners/A1 and A2

Vs.

1.The State by
The Inspector of Police,
Ervadi Police Station,
Ramnad District.
(Crime No.2 of 2019) : R1/Complainant

2.Gowri : R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.2 of 2019 on the file of the 1st respondent and quash the same.

For Petitioners : Mr.D.Venkatesh

For 1st Respondent : Mr.SS.Madhavan
Government Advocate
(Crl. side)

For 2nd Respondent : Mr.S.Malaikani

O R D E R

This criminal original petition has been filed by the petitioners seeking quashment of the case in Crime No.2 of 2019 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The petitioners are facing the charge under section 306 IPC. The de-facto complainant, as mentioned above, is wife of the deceased. In the complaint, she has stated that her husband was addicted to liquor; used not properly attending the duty regularly; because of the same, some sort of problem arose between the petitioners as well as the deceased. On one occasion, he was removed from employment. At the intervention of the Deputy Manager, he again

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joined the employment. After that, he was regularly attending the work. On 06/01/2019, he did not go for the job. On 03/01/2019, 04/01/2019 and 05/01/2019 for continuously three days, he did not attend the work properly and did not sign in the attendance register and particularly on 06/01/2019, he went to the field and at that time, the deceased appears to have consumed poison and taken to the hospital and thereafter to Vellammal Medical College Hospital. He died in the middle. On the basis of the complaint given by the de-facto complainant, a case was registered under section 174 Cr.P.C and during the course of investigation, it was found that because of the abetment and harassment made by these petitioners, the deceased committed suicide. So, they were charged under section 306 IPC.

3. Seeking quashment of the above said criminal proceedings, this petition has been filed by the petitioners on the main ground that even as per the allegation made, either in the complaint or in the final report, the offence under section 306 IPC is not attracted against them. Being the supervisor and the immediate higher authority of the deceased, they scolded him for not properly attending the work. So that it will not amount to abetment of suicide. On the particular date of the occurrence, the first petitioner informed the deceased to attend the duty, but there was no proper response. On the previous occasion, the deceased was scolded by the petitioners for coming to the job in a drunken mood. This will not amount to abetment of suicide.

4. Heard both sides.

5. The entire records has been called for and perused. There is no statement of the deceased, either to the de-facto complainant, who is his wife or to any other officer. He died enroute to the hospital. But even in the complaint, the de-facto complainant has stated nothing that because of the harassment or ill treatment of the petitioners, the deceased was under mental pressure, so, he committed suicide. Even in the further statement, she has not implicated these petitioners.

6. The sister of the deceased has given a statement that when the deceased was admitted in the Joseph Private Hospital, Ramanathapuram, he informed and told her that on 06/01/2019, these petitioners talked to him through phone and because of that, he suffered mental pressure and because of that, he consumed poison. The same was the statement of one Karuppaiah, who is the Uncle of the deceased. The co-workers of the deceased was also examined. During the course of investigation, they have not implicated anything wrong with regard to the conduct of the petitioners and the treatment of the deceased by these petitioners. So except the statement of the above said two persons, no other materials are available that because of the continuous torture and abetment, the deceased committed suicide. So the question, which arises for



consideration is even if we take the statement of the above said sister and and the Uncle of the deceased, on the face value, the offence under section 306 IPC is attracted.

7.The learned counsel appearing for the 2nd respondent would submit that the statement to the police has been suppressed during the course of investigation. So according to him, the statement was given by the deceased to the police, when he was admitted in the hospital. But absolutely, there is no such material available on record. There is no occasion or reason for the Investigating Officer to suppress the alleged statement of the deceased. Such a contention cannot be accepted without any basic material.

8.Now coming back to the argument, the learned counsel appearing for the petitioners has relied upon the decision of the Hon'ble Supreme court in ***Vaijnath Kondiba Khande Vs. State of Maharashtra and another (Crl. Appeal No.765 of 2018, dated 17/05/2018)*** for the purpose of argument that it is usual and routine for the employer to correct the employee, whenever an employee misbehaves. The Hon'ble Supreme court is of the view that if a situation is created deliberately so as to drive a person to commit suicide, then only the offence under section 306 IPC can be attracted. It is further observed that as a superior officer, if some work was assigned to the deceased, that will not amount to criminal intent or guilty or the situation may call for certain action on the part of a superior including stopping of salary etc. So, that sort of action cannot be construed to be as wrongful. The relevant para runs like this:-

"8. In the backdrop of these two lines of cases, we have gone through the material on record. There is no suicide note left behind by the deceased and the only material on record is in the form of assertions made by his wife in her reporting to the police. It is true that if a situation is created deliberately so as to drive a person to commit suicide, there would be room for attracting Section 306 IPC. However, the facts on record in the present case are completely inadequate and insufficient. As a superior officer, if some work was assigned by the applicant to the deceased, merely on that count it cannot be said that there was any guilty mind or criminal intent. The exigencies of work and the situation may call for certain action on part of a superior including stopping of salary of a junior officer for a month. That action simplicitor cannot be considered to be a pointer against such superior officer. The allegations in the FIR are completely inadequate and do not satisfy the requirements under Section 306 IPC. In our view, the facts in the



present case stand on a footing better than that in Madan Mohan Singh (supra) and there is absolutely no room for invoking provisions of Section 306 IPC. We are of the firm view that the interest of justice demands that the proceedings initiated against the appellant are required to be quashed.

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9. So when we apply the principle to the present case, as narrated above, there is no material available to show that through phone, the petitioners created a circumstance or a situation or scolded the deceased or abetted him to commit suicide. Here, the conduct of the deceased is relevant, as mentioned earlier, he was not regular in attending his work and even used to attending the work, after consuming liquor. Such sort of misconduct was being condemned by the superior, was suspended from service, stopped from the work for considerable period of time. When such being the conduct of the deceased, the prosecution case that these petitioners created circumstance or situation, which drove the deceased to commit suicide is absolutely without any material.

10. The circumstance was created by the deceased himself. Because of the conduct of the deceased, he himself has created a situation, which drove him to commit suicide, for which these petitioners cannot be held responsible. Absolutely, no criminal intention or motive is attributed against these petitioners.

11. So in the facts and circumstances of the case and also considering the judgment of the Hon'ble Supreme Court as stated above, I am of the considered view that continuation of the criminal proceedings against the petitioners will be an abuse of process of court and law. So, this petition is liable to be allowed.

12. In the result, this criminal original petition is **allowed**. The FIR in Crime No.2 of 2019 pending on the file of the 1st respondent is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petition is closed.

Sd/-

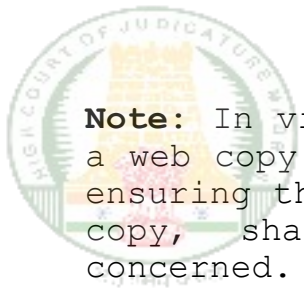
Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

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To,

- 1.The Inspector of Police,
Ervadi Police Station,
Ramnad District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.MALAIKANI, Advocate (SR-13564[F] dated
22/03/2022)

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RK(18.04.2022) 5P 4C