



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.651 of 2020

and Crl.M.P(MD)Nos.6480 & 6482 of 2020

WEB COPY

M.Vijayarajan

... Petitioner/Sole Accused

Vs.

1.State represented by,

The Inspector of Police,

Virudhunagar West Police Station,

Virudhunagar District.

Crime No.128 of 2012. ... 1st Respondent/Complainant

2.A.Avudaithai

... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Revision Case filed under Section 397(1) read with Section 401 of the Code of Criminal Procedure, to call for the records and set aside the order passed in Cr.M.P.No.1366 of 2018, dated 05.10.2020 on the file of the learned Mahalir Neethimandram (Fast Track Mahila Court), Virudhunagar District at Srivilliputhur in S.C.No.36 of 2018 on the file of the learned Mahalir Neethimandram (Fast Track Mahila Court), Virudhunagar District at Srivilliputhur and allow this revision and discharge the petitioner/accused from the charge leveled against him.

For Petitioner

: Mr.AK.Azagarsami

For R - 1

: Ms.M.Aasha

Government Advocate (Criminal Side)

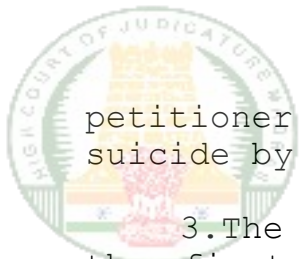
For R - 2

: No appearance

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.1366 of 2018 in S.C.No.36 of 2018, dated 05.10.2020 on the file of the learned Mahalir Neethimandram (Fast Track Mahila Court), Virudhunagar District at Srivilliputhur, thereby dismissed the petition filed for discharge under Section 227 of Cr.P.C.

2.The petitioner is the sole accused. He has been charged for the offences under Sections 417 and 306 of I.P.C in Crime No.128 of 2012 on the file of the first respondent. The second respondent lodged complaint alleging that the petitioner and the deceased loved each other and he promised to marry the deceased. Later, the petitioner failed to marry her due to financial crisis. Due to that, the deceased had sent a message to the petitioner that without the



petitioner she cannot live. Thereafter, on 08.02.2012, she committed suicide by hanging.

3.The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that on the complaint, dated 08.02.2012, the first respondent registered a case in Crime No.128 of 2012 for the offence under Section 306 of I.P.C. After completion of investigation, the first respondent laid charge-sheet and the same has been taken cognizance in S.C.No.36 of 2018 on the file of the learned District and Sessions Judge (Fast Track Mahila Court), Virudhunagar District at Srivilliputhur. In fact, the petitioner already a petition in Crl.O.P(MD)No.3106 of 2017 before this Court to quash the proceedings in P.R.C.No.8 of 2016 and the same was dismissed as withdrawn by an order, dated 20.03.2017. Since this Court about to dismiss the petition, on merits, the learned counsel appearing for the petitioner seeks permission of this Court to withdraw the petition with liberty. Therefore, there is a material to attract the offence under Section 306 of I.P.C and the Court below rightly dismissed the petition for discharge.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and perused the materials available on record.

5.Though the name of the second respondent has been printed in the cause list, none appeared on behalf of her either in person or through counsel.

6.On a perusal of the materials available on record revealed that admittedly the petitioner and the deceased fell in love and the petitioner promised to marry the deceased. When the deceased was mentally prepared for her marriage with the petitioner, the petitioner informed her that due to his financial crisis, he could not marry at present and he would marry her later. Thereafter, the deceased in a disgusted mood had sent a message to the petitioner that she cannot live without him and committed suicide by hanging in the institution, where she was working. For these allegations, the petitioner has been now charged for the offence under Sections 417 and 306 of I.P.C.

7.In this regard, it is relevant to rely upon the judgment of the Honourble Supreme Court of India reported in **(2001) 9 SCC 618 - Ramesh Kumar Vs. State of Chattisgarh**, wherein, the Hon'ble Supreme Court of India revealed that if it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the



accused charged of abetting the offence of suicide should be found guilty."

8.In the case of **Swamy Prahladdas Vs. State of Madhya Pradesh** reported in **1995 Supp (3) SCC 438** reveals that the appellant was charged for an offence under Section 306 I.P.C. on the ground that the appellant during the quarrel is said to have remarked the deceased 'to go and die' . This Court was of the view that mere words uttered by the accused to the deceased 'to go and die' were not even prima facie enough to instigate the deceased to commit suicide. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional."

9.The ingredients of Section 415 of I.P.C is that if a person in body, mind, reputation or property, then the person who fraudulently, dishonestly or intentionally induced the other person is said to cheat. However, in the case on hand it is not the case of the second respondent that the petitioner had physical relationship with the deceased on the pretext of promise to marry her. Only due to his financial crisis, he could not able to marry her at present and he informed that he would marry later. Therefore, this Court finds that the same would not amount to cheating of the deceased. A reading of the entire charge and the statements recorded under Section 161(3) of Cr.P.C, this Court finds no element or an ingredient necessary to constitute the offences under Sections 417 and 306 of I.P.C is not made out.

11.In view of the above, the order passed in Cr.M.P.No.1366 of 2018 in S.C.No.36 of 2018, dated 05.10.2020 on the file of the learned Mahalir Neethimandram (Fast Track Mahila Court), Virudhunagar District at Srivilliputhur is set aside and the Criminal Revision Case is allowed. The petitioner is hereby discharged from the charge under Sections 417 and 306 of I.P.C in S.C.No.36 of 2018. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

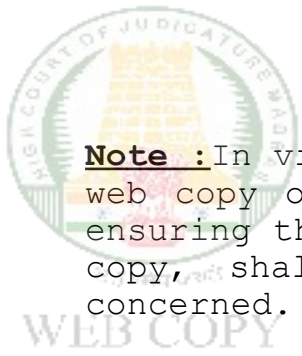
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/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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 Mahalir Neethimandram
(Fast Track Mahila Court),
Virudhunagar District at Srivilliputhur.
- 2.The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

COPY TO:

The Section officer,
Criminal Records,
Madurai Bench Of Madras High Court, Madurai. (2 COPIES)

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07.04.2022

RD(20.04.2022) 4P 6C