



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P(MD)Nos.14237 of 2021 and 3176 of 2022

and

Crl.M.P(MD)Nos.7452 of 2021, 2380 and 2381 of 2022

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Crl.O.P(MD)No.14237 of 2021

1.C.Rajammal
2.Kazhuvai
3.P.Mokkamayan
4.R.Periyasamy
5.Panaselvam
6.M.Sudha
7.P.Jothi
8.M.Paulsamy
9.M.Palpandi

...Petitioners/
Accused 1 to 3 and 5 to 10

Vs.

1.State represented through
The Inspector of Police,
Veerapandi Police Station,
Theni District.
(Crime No.267/2017)

...Respondent/Complainant

2.K.Lathaselvi

...Respondent/Defacto
Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.09 of 2019 filed by the first respondent in Crime No.267/2017 pending on the file of the learned Judicial Magistrate Court, Theni District and quash the same as devoid of merits and abusing the process of law with regard to the petitiones concerned.

For Petitioners : Mr.C.M.Arumugam

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

For R2 : Mr.P.M.Vishnuvarthanan



Crl.O.P(MD)No.3176 of 2022

M.Chandran

...Petitioner/Accused No.4

Vs.

1.State represented through
The Inspector of Police,
Veerapandi Police Station,
Theni District.
(Crime No.267 of 2017)

...Respondent/Complainant

2.K.Lathaselvi

...Respondent/Defacto
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Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.09 of 2019 filed by the first respondent in Crime No.267/2017 pending on the file of the learned Judicial Magistrate Court, Theni District and quash the same as devoid of merits and abusing the process of law with regard to the petitioner is concerned.

For Petitioner : Mr.C.M.Arumugam

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

For R2 : Mr.P.M.Vishnuvarthanan

C O M M O N O R D E R

These criminal original petitions have been filed seeking to quash the proceedings in P.R.C.No.09 of 2019, which is pending on the file of the learned Judicial Magistrate Court, Theni District.

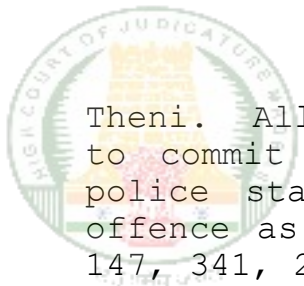
2.On the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No.267/2017 under Section 174 of Cr.P.C. Thereafter, it was altered into for the offences under Sections 147, 341, 294(b) and 306 of IPC, on the allegation that the husband of the second respondent consumed poison and had committed suicide on 01.07.2017 and that on the abetment of the accused persons he was driven to commit suicide. Further, alleged that on 01.07.2017 at about 01.00 pm, the second respondent received a phone call from the deceased and she was informed that the petitioners have scolded and threatened him with dire consequences that if he demands properties from the first accused and he also informed that he was insulted by all the accused persons and as such, he had taken an extreme step of consuming poison. It was happened infront of the first respondent police station, in which, one of the accused persons were working as police. After completion of investigation,



the first respondent laid a final report and the same has been pending for committal in P.R.C.No.9/2019, on the file of the learned Judicial Magistrate Court, Theni District.

3.The learned Counsel for the petitioner would submit that no charge has been made out as against the petitioners since there is absolutely no allegation that the petitioners abetted the deceased to commit suicide soon before his death. A word that has been uttered in anger without an intention, has consequence to follow up cannot be said to be an instigation even according to the case of the prosecution, that on 01.07.2017 at about 01.00 pm, the second respondent received a call from the deceased and informed that he was threatened with dire consequences if any of his share asked for. There are two versions in the complaint that the deceased was scolded by the petitioners in front of the police station and another version is that he consumed poison in their land. All the petitioners are same family members and the deceased is also a close relative to them. Due to the property dispute between them, they have no cordial relationship. The husband of the petitioner herein had executed a settlement deed in respect of the property inherited through a registered partition deed on 22.02.2014. Thereafter, the deceased, who is the husband of the second respondent assaulted the first petitioner in Crl.O.P(MD)No.14257/2021 and compelled her to transfer the property in his favour. Infact, the first petitioner lodged a complaint in this regard on 19.05.2014 before the Superintendent of Police, Theni and it was enquired. In the enquiry, the deceased gave a statement that he would not disturb the peaceful possession and enjoyment of the subject property by the first petitioner. Thereafter, he committed suicide due to some other reason, on 01.07.2017. In pursuant to the settlement deed, the first petitioner executed registered a Will in favour of the ninth petitioner herein in respect of the property under Patta No.2410 situated at Veerapandi village, Theni District. Due to which, the deceased threatened and compelled the first petitioner to transfer the property in his favour. The second respondent filed a counter which would reveal that the fourth accused/petitioner in Crl.O.P(MD)No.3176/2022 is working as a Police Constable in the first respondent police station. On the date of occurrence, there was a serious threat made by police in front of the police station. Thereafter, he/deceased was found near the house of the second respondent under the influence of poison at about 05.00 pm. It was happened in order to defeat her husband's property right and only because of the joint threat of the petitioners herein, he got break down and had committed suicide. All the grounds raised by the petitioners have to be considered only during the trial and as such, prayed for dismissal of the quash petition.

4.The learned Government Advocate (Crl.Side) would submit that after completion of investigation in Crime No.267/2017, final report had been filed and the same had been pending for committal in P.R.C.No.9/2019, on the file of the learned Judicial Magistrate,



Theni. All the petitioners have instigated and abetted the deceased to commit suicide on 01.07.2017 in front of the first respondent police station. Therefore, there are materials to attract the offence as against the petitioners for the offences under Sections 147, 341, 294(b) and 306 of IPC.

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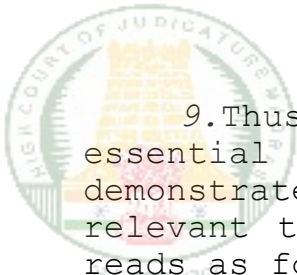
5. Heard the learned Counsel appearing for the petitioners, the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned Counsel appearing for the second respondent.

6. The husband of the second respondent had consumed poison and committed suicide on 01.07.2017. On 01.07.2017 at about 01.00 pm, the second respondent received a phone call from the deceased and informed that the petitioners scolded and threatened him with dire consequences if he demands the family properties from the first petitioner. Therefore, the deceased having got worried, consumed agricultural pesticide at about 05.00 pm in front of the house of the second respondent. Immediately, he was taken to Government Hospital, Veerapandi for treatment by an auto and he was given the first aid by the duty Doctor. Thereafter, he was taken to Kalangavilaku Government Hospital, where he was declared brought dead. However, the prosecution has failed to examine any one of the Doctors from both the hospitals as a witness. There was also no action recorded by any one of the hospitals.

7. The first petitioner is the wife of the paternal uncle of the deceased. The husband of the first petitioner had acquired properties by way of the partition deed, dated 27.11.1980. In turn, he executed a settlement deed, dated 24.02.2013, in favour of the first petitioner in respect of all of his share attained through the partition deed. After demise of her husband, the deceased attempted to grab the subject property. Pursuant to which, there was a dispute which ended in registration of FIR as against the sons of the second respondent herein. Even, according to the second respondent, she received a phone call from the deceased and was informed that he had been threatened and scolded by the accused persons if he demands the family property from the accused. Even then, the first respondent had failed to verify the call details, which was said to have been received by the second respondent, herein and thereby, failed to substantiate the information received from the deceased.

8. Even assuming that there was a threat by the accused persons, whether it would attract the offence under Section 306 of IPC or not. It is essential to extract Section 306 of IPC.

'Abetment of Suicide-If any person commits suicide, whoever abets that commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'



9.Thus to attract the offence under Section 306 of IPC, it is essential that there should be sufficient materials on record to demonstrate that an act was done on the ground of abetment. It is relevant to extract the provision under Section 107 of IPC, which reads as follows:

*'107.Abetment of a thing-A person abets the doing of a thing, who-First.- Instigates any person to do that thing; or
Secondly.- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing'
or
Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing'.*

10.The first segment of Section 107 of IPC defence abetment as instigation of the person to do a particular thing. The second segment of defence is whether it would lead to have a conspiracy with other persons for doing of a thing and an act or illegal omission in pursuance of the conspiracy and the third segment is whether the abetment found is intentional of doing a thing either by an act or omission. Merely, on the allegation of harassment without their being any positive action approximate to the time of occurrence on the part of the accused which lead or compelled the person concerned to commit suicide. The charge in terms of Section 306 of IPC is not sustainable. That apart, the abetment involves a mental pressure of instigating a person or intends a person in doing of a thing without a positive act on the part of the accused to instigate or aid any committing suicide, the charge cannot be sustained for the offence under Section 306 of IPC. There should be a clear ground to attract the offence under Section 306 of IPC, the specific requirement to attract the offence under Section 307 of IPC is that there must be an allegation of either direct or indirect act of incitement to the commission of suicide and mere allegations of harassment of the deceased by another persons would not be sufficient in itself, unless there are allegations of such actions on the part of the accused which compelled the commission of suicide. Thus, the very element of abetment is conspiraciously missing from the allegations levelled in the charge sheet. In the absence of any element of abetment missing from the allegations, the essential ingredients attracting the offence under Section 306 of IPC do not exist.

11.Insofar as other offences are concerned, there is absolutely no material to attract the offence under Sections 147, 341 and 294 (b) of IPC as stated supra. The second respondent was informed over phone by the deceased that he was scolded and threatened by the accused persons. On perusal of the complaint, the word 'நீ செய்து போய்விடு இல்லையென்றால்' was inserted and registered the FIR. Mere



uttering the word 'go and die' will not attract any offence under Section 306 of IPC.

12.The first version of the second respondent is that on 01.07.2017 at about 01.00pm, the deceased informed through phone that he was scolded and threatened by the petitioners in front of the first respondent police station. Thereafter, the second respondent found the deceased in front of the police station after consumption of poison. The second version of the complaint is that she found the deceased near her house in the status of consumption of agricultural pesticide.

13.Therefore, there is absolutely no material to attract any of the offence as alleged by the prosecution and the prosecution has miserably failed to bring the charges to home and as such, the entire proceedings cannot be sustained as against the petitioners and the same is liable to be quashed.

14.Therefore, the proceedings in P.R.C.No.9/2019, pending on the file of the learned Judicial Magistrate, Theni, are quashed. The criminal original petitions are allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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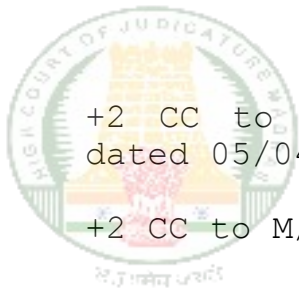
Sub Assistant Registrar(CS)

lr

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,
Theni.
- 2.The Inspector of Police,
Veerapandi Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



CrI.O.P(MD)No.14237 of 2021

+2 CC to M/s.P.M. VISHNU VARTHANAN, Advocate (SR-16557,16564[F]
dated 05/04/2022)

+2 CC to M/S.ARUMUGAM, Advocate, SR-16882 dated 06/04/2022

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