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Crl.OP.No.1685 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.1685 of 2023
and
Crl.M.P.Nos.923 & 924 of 2023

1.K.Alagumalai

2. A.Jayanthi

... Petitioners

Vs.

1. The State Rep by its,
The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.

2. S.Mohankumar

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records connected with the Charge Sheet in C.C.No.719 of 2020 pending on the file of the Judicial Magistrate No.1, Namakkal and quash the same in so far as the petitioners are concerned.

For Petitioner

: Mr.S.Varanesh

For R1

: Mr.Leonard Arul Joseph Selvam
Government Advocate(Crl.side)



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ORDER

This Criminal Original Petition has been filed to call for the entire records connected with the Charge Sheet in C.C.No.719 of 2020 pending on the file of the Judicial Magistrate No.1, Namakkal and quash the same.

2. The learned counsel for the petitioners submitted that, petitioners have been prosecuted for the offences under Sections 309 and 506(2) of IPC . The allegations against the petitioners is that, petitioners tried to commit suicide by pouring petrol on him. When the second respondent/ defacto complainant and the policemen tried to prevent them, they made criminal intimidation stating that if they attempted to prevent them, they would also kill them with fire. It is his further submission that, Section 115 of the Mental Health Care Act, 2017 decriminalized the offence under Section 309 of IPC for the reason that, persons under severe stress shall not be tried and punished under Section 309 of IPC. Petitioners tried to commit suicide for the reason that the adjacent land owner was trying to usurp their land, since, they were not able to get any remedy, they were under stress and attempted to commit suicide. He further submitted that, when the petitioners cannot be prosecuted under Section 309 of IPC, ultimately



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the other offence under Section 506(ii) of IPC will also be failed.

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3. The learned Government Advocate (Crl. Side) opposes the petition on the ground that the trial in this case has commenced.

4. Considered the rival submissions and perused the records.

Section 115 of the Mental Health Care Act, 2017 reads as follows:

"any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code"

As per this section, if a person attempted to commit suicide shall be presumed, unless proved otherwise that he suffered severe stress, he cannot be prosecuted for the offence under Section 309 of IPC.

5. In the case before hand, it is claimed by the petitioners that, they are under severe stress for the reason that the adjacent land owner was trying to



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usurp their land. Since, they were not able to get any remedy, they were under stress and tried to commit suicide. Thus, this Court is of the view that, petitioners cannot be prosecuted under Section 309 of IPC. If the main offence ie, 309 of IPC fails, there is no reason for prosecuting the petitioners for incidental offence under Section 506(ii) of IPC. Therefore, this Court is inclined to quash the charge sheet as against the petitioners in C.C.No.719 of 2020 on the file of the Judicial Magistrate No.I, Namakkal.

6. Accordingly, this Criminal Original Petition is Allowed. The charge sheet as against the petitioners in C.C.No.719 of 2020 on the file of the Judicial Magistrate No.I, Namakkal is hereby quashed. Consequently, connected miscellaneous petitions are closed.

14.06.2023

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To

1. The Judicial Magistrate No.I, Namakkal.

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2. The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.
3. The Public Prosecutor,
High Court of Madras.

G.CHANDRASEKHARAN,J.

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