



*Crl OP No. 8909 / 2021*

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 21.06.2023**

**CORAM :**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**Criminal Original Petition No. 8909 of 2021  
and  
Crl.M.P. Nos. 5793 & 5794 of 2021**

1. Mani

2. Sampath

3. Sivaraman

4. Manickam

... Petitioners

**Versus**

1. The State,  
Rep. by Inspector of Police,  
Edappadi Police Station,  
Salem District.

2. Gowri

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records pertaining to S.C. No. 22 of 2021 pending on the file of the learned first Additional District Judge, Salem and quash the same by allowing the present criminal original petition.

**For Petitioner : Mr. R. Jayaprakash.**

**For Respondent : Mr. A. Damodaran,  
Additional Public Prosecutor for R1.**



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Mr. C.S. Saravanan for R2.

### **ORDER**

The petition is to quash the proceedings in S.C. No. 22 of 2021 on the file of the first Additional District Judge, Salem filed against the petitioners for the offence under Sections 306 read with 115 of the Indian Penal Code and Sections 4 and 9 of the Tamil Nadu Prohibition of Exorbitant Interest Act, 2003.

2.It is alleged in the final report that the defacto complainant's husband obtained loan from the petitioners agreeing to pay exorbitant interest; that since the defacto complainant's husband suffered financial crisis, he was not able to repay the interest as promised; that the petitioners had abused him in filthy language and hence, he was forced to consume pesticide on 26.01.2018; and that because he was taken immediately to the hospital, he survived; and that hence, the petitioners are guilty of the aforesaid offences.

3.The learned counsel for the petitioners submitted that there is absolutely no material in the impugned final report to show that the



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petitioners had charged exorbitant interest; that merely because a loan had been granted to the defacto complainant's husband, it cannot be said that the petitioners charged exorbitant interest. The allegations have been invented only to deprive the petitioners of the loan amount. Further, the learned counsel submitted that the prosecution for the offence under Section 306 read with 115 of the Indian Penal Code is unsustainable. Section 115 deals with abetment and Section 306 deals with abetment of suicide. The learned counsel submitted that there cannot be an abetment to abetment of suicide. He relied upon the Judgment of the Honourable Supreme Court in ***Satvir Singh and Others Vs. State of Punjab and Others*** reported in ***(2001) 8 Supreme Court Cases 633*** in support of his submission.

4.The learned Additional Public Prosecutor submitted that there are allegations which are to be adjudicated only before the trial Court and hence, prayed for dismissal of this petition.

5.The learned counsel for the second respondent submitted that the second respondent is not interested in pursuing the case.



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6.This Court on perusal of the impugned final report finds that the charge under Section 306 of the Indian Penal Code cannot be sustained.

The observations of the Honourable Supreme Court in **Satvir Singh's case (cited supra)** apply to the facts of the instant case. Paragraph No.8 of the said Judgment reads as follows;

*“8. Learned Sessions Judge went wrong in convicting the appellants under Section 116 linked with Section 306 IPC. The former is “abetment of offence punishable with imprisonment — if offence be not committed”. But the crux of the offence under Section 306 itself is abetment. In other words, if there is no abetment there is no question of the offence under Section 306 coming into play. It is inconceivable to have abetment of an abetment. Hence there cannot be an offence under Section 116 read with Section 306 IPC. Therefore, the High Court was correct in altering the conviction from the penalising provisions fastened with the appellants by the Sessions Court.”*

Since the defacto complainant's husband has not committed suicide, the charge under Section 306 read with 115 of the Indian Penal Code is unsustainable.

7.As regards the offence under Section 4 and 9 of the Tamil Nadu



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Prohibition of Exorbitant Interest Act, 2003, this Court finds that there is no material in the final report suggesting that the said exorbitant interest was charged and paid by the defacto complainant's husband. Further, this Court finds that the defacto complainant had expressed through her counsel that she is no longer interested in pursuing the complaint which resulted in the impugned final report.

8. Therefore, for all the above reasons, this Court is of the view that no useful purpose would be served in keeping the proceedings pending before the trial Court. Hence, the proceedings in S.C. No. 22 of 2021 pending on the file of the first Additional District Judge, Salem is quashed.

9. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

**21.06.2023**

*ay*

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

1. The Inspector of Police,  
Edappadi Police Station,  
Salem District.
2. The I Additional District Judge,  
Salem.

**SUNDER MOHAN, J**

*ay*

3. The Additional Public Prosecutor,  
High Court of Madras,  
Chennai.

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and  
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