



Crl.O.P.No.24072 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.24072 of 2021
and Crl.M.P.No.13275 of 2021

1. G.Earnest Paul
2. Geetha
3. Priyadharsini
4. Pavani

...Petitioners

-Vs-

1. The State represented by
The Inspector of Police,
Thirubuvanai Police Station,
Pudhuerry.
(Crime No.25/2014)

2. P.Illango

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records of the charge sheet in S.C.No.32 of 2021, pending on the file of the learned Chief Judicial Magistrate, Puducherry and quash the same.

For Petitioner : Mr.B.Balavijayan

For Respondents

For R1 : Mr.M.V.Ramachandra Murthy
Additional Public Prosecutor (Pondy)

For R2 : No appearance



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.C.No.32 of 2021 on the file of the learned Chief Judicial Magistrate, Pudhucherry, thereby taken cognizance for the offence under Section 306 r/w. 34 of IPC as against the petitioners.

2. The case of the prosecution is that the deceased Vinothini was a first year student of MIT College in the EEE stream. While being so, on 24.02.2021, she had come to the college in the college bus. On reaching the college along with other students, without going to the class room, she went to the upstairs of the college viz., fifth floor of the building and she jumped from the fifth floor and committed suicide. She died on the spot inside the college premises. On the complaint lodged by the father of the deceased, viz., the second respondent herein, the first respondent registered FIR in Crime No.25 of 2014 for the offences under Section 306 of IPC r/w. 34 of IPC., alleging that the deceased was not permitted to enter into the college on 21.02.2014 and also on 24.02.2014. Therefore, she had mental agony and went to the fifth floor of the college building and jumped. Therefore, the father of the deceased suspected on the death of her daughter and made allegations as against the lecturers.



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Therefore, the FIR was registered as against four accused persons for the offences punishable under Section 306 r/w 34 of IPC. After completion of the investigation, the first respondent filed charge sheet and the same has been taken cognizance for the offence under Section 306 r/w 34 of IPC, in which the petitioners are arrayed as A1 to A4.

3. The learned counsel appearing for the petitioners submitted that on perusal of the statement recorded from other staff and students revealed that on 21.02.2014, there was a practical examination in which the deceased was caught red handed while manipulating the record note in the laboratory room along with other student. Thereafter, they were directed to bring their parents on 24.02.2014 to meet the Principal of the College, since 21.02.2014, falls on Friday and as such they were asked to bring her parents on Monday viz., 24.02.2014. However, the deceased did not even disclose the said incident to her parents and suppressed the same, on 24.02.2014 she had come to college in the college bus. Straight away, she had gone to the fifth floor of the college building, without going to the class room. Thereafter, she jumped and committed suicide from the fifth floor and due to the injuries sustained by her she died on the spot.



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3.1. He further submitted that, the first respondent failed to establish even the ambit of evidence to speak about the active role played by the petitioners to attract the offence under Section 306 of IPC. The first respondent also failed to produce any evidence to show that the petitioners caused or induced the deceased to commit suicide. No evidence to show that the petitioners abetted the deceased to commit suicide. All the petitioners are Assistant Professors and hence he prayed to quash the entire proceeding.

4. Heard the learned counsel appearing on either side and perused the material placed before this Court.

5. On perusal of the statement of the second respondent revealed that he was informed that on 21.02.2014, the deceased did not come to the college. On 24.02.2014, she was not permitted to enter into the class room. Therefore, she got mental agony and committed suicide. In fact, on 21.02.2014, the petitioners dragged the deceased to physics laboratory and scolded her with filthy language in front of other students. Therefore, she suffered with huge mental agony.



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6. Whereas on perusal of the statement of the Assistant Professors Santhiya revealed that while she was in-charge of computer lab and while correcting the test note during lunch time, on 21.02.2014, one Sarvothaya came to computer lab and she tried to insert the test note of the deceased. Immediately she was enquired and she told that the deceased failed to submit the test note and as such as directed by her, the said Sarvothaya came to the computer lab to keep the note book along with other note books. Immediately the deceased called for and enquired. She admitted that she failed to submit the test note book in the computer laboratory on the date of examination and thereafter she only directed Sarvothya to keep the test note book along with other note books. It was informed to the petitioners and they warned the deceased not to do the same and also informed to the Head of the department and Principal. Thereafter, she was asked to bring her parents for the wrong committed by her.

7. On perusal of other student's statements revealed that on 24.02.2014, the deceased was not permitted to enter into class, since she failed to bring her parents. Therefore, she went to fifth floor of the



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building and committed suicide. Even assuming that she was not permitted to enter into class room by the class teacher, it would not amount to abetment to commit suicide, since already the deceased was directed to bring her parents for the wrong committed by her. In fact, it was not even informed to her parents on 21.02.2014 and she straight away she came to college on 24.02.2014. Even assuming that she was enquired about not bringing her parents and not permitted her into class room, it would not amount to abetment or inducement to commit suicide.

8. It is relevant to extract the provision under Section 306 of IPC as follows:-

“306. Abetment of suicide — If any person commits suicide, whoever abets the 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.”

Thus the intention of the legislature is clear that in order to convict a person under Section 306 of IPC, there must be clear mens rea to commit the offence. It also requires an active role or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed



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suicide. Further abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. Without a positive act on the part of the accused to instigate or aid any committing suicide, that charge of Section 306 of IPC cannot be sustained.

9. In the case on hand, no suicide note and no words uttered by the accused person. Even according to the case of the prosecution on 21.02.2014, the in-charge of computer laboratory noticed that another student called Sarvothaya came to the laboratory and tried to keep the test note book of the deceased along with other test note book. It was noticed and immediately it was questioned and asked the deceased to come to the laboratory. It was also informed to the class teacher and other lectures who were teaching the deceased. It was also informed to the Principal and asked the deceased to bring her parents on 24.02.2014. There is absolutely no allegations that the petitioners uttered words towards the deceased by straight words or any suicidal note written by the deceased with regard to the harassment made by the petitioners.

10. Even assuming that some words uttered by the petitioners on 21.02.2014, the deceased committed suicide only on 24.02.2014. Soon



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before her death, there was no instigation or abetment to commit suicide.

Even assuming some words uttered by the petitioners, a word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the Court held a victim committing suicide was hyper sensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged and such petulance discord and difference 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 for abetting the offence of suicide should be found guilty.

11. The word instigate denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. The 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. Even assuming that the petitioners had uttered some words against the deceased on 21.02.2014, thereafter, the deceased had gone to her house on Friday viz., 21.02.2014. Again she came to college on 24.02.2014, that too in



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the college bus. She had gone to fifth floor without going to the class room and jumped from the fifth floor and committed suicide. All these factors would clearly pointed out that it would not be attracted any offence as against the petitioners.

12. In this regard, it is relevant to rely upon the judgment reported in **2022 (2) LW (Crl.) 633** in the case of **Sarathkumar Vs. The State and anr** in which this Court held as follows :-

“13. In the case of Gangula Mohan Reddy v. State of Andhra Pradesh reported in (2010) 1 SCC 750 it is held as follows :-

“10. “Abetment” has been defined under Section 107 of the Code. We deem it appropriate to reproduce Section 107, which reads as under:-

“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.”
Explanation 2 which has been inserted along with



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Section 107 reads as under: “Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

13. Therefore, 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 deceased 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. Thus, the very element of abetment is conspiraciously missing from the allegations levelled in the charge sheet as against the petitioners.

14. Insofar as the offence under Section 34 of IPC, the prosecution failed to bring the charge to home, since there is absolutely no iota of evidence to bring the charge of common intention along with the petitioners herein. Though all of them are Assistant Professors in the



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M.VIT College, it does not mean that they had common intention to abet the deceased to commit suicide. Except the relationship of Assistant Professor in the same college, there is no other evidence to show that they had common intention to instigation the deceased to committed suicide.

15. In view of the above discussions, the proceedings in S.C.No.32 of 2021 on the file of the learned Chief Judicial Magistrate, Pudhucherry, is hereby quashed as against the petitioners and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

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To

1. The Chief Judicial Magistrate,
Pudhucherry
2. The Inspector of Police,
Thirubuvanai Police Station,
Pudhuerry.
3. The Public Prosecutor,
Madras High Court,
Chennai.

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