



Crl.O.P.No.20891 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.03.2023

Pronounced on : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.20891 of 2019

and

Crl.M.P.No.10770 of 2019

Dhinesh

... Petitioner/Accused - 1

Vs.

State Rep By:

The Inspector of Police,

H3, Thandaryarpet Police Station,

Chennai - 81

...Respondent/Complainant

Prayer: This Criminal Original Petition has been filed to call for all the records and quash all the proceedings S.C.No.224 of 2019 on the file of the Learned Principal and District Sessions Judge at Chennai.

For Petitioner : M/s.J.Sudeksha for J.Daniel



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For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

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ORDER

The petitioner has challenged the Proceedings in S.C.No.224 of 2019 for the alleged offences under Sections 341, 323 and 306 IPC r/w 34 I.P.C., on the file of the learned Principal and District Sessions Judge, Chennai, in which, the petitioner is arrayed as A1.

2.It is alleged in the final report that the deceased was working in a company by name “Amman Transport” at Madhavaram, Kosappur. There was a load contract dispute between the said company and another company by name “Magarajothy Transport”. On 26.04.2018, at about 1:00 AM, the deceased in an inebriated condition prevented the lorry belonging to the first accused from entering into a company by name “Kothari Steels Private Limited”. Enraged by this, all the accused including the petitioner attacked the deceased with hands. The deceased was mentally upset and at about 3:30 AM he committed suicide by self immolation. He was taken to the Kilpauk Hospital at about 5:30 AM and died at about 8:40 PM on the same day. The deceased had given a dying declaration stating that the persons accompanying the petitioner had attacked him with hands



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and caused hurt to him. He gave a complaint to the police and since the police did not turn up, he had committed suicide by self-immolation.

3.The learned counsel for the petitioner would submit that the deceased had matrimonial discord and on account of that he took to the habit of drinking. The statement of L.W.1, his wife would confirm this fact. That apart, L.W.2 who was working as night supervisor in Kothari Steels Private Limited had stated that the deceased was in the habit of roaming around near his company every night after drinking. He further could not secure any job because of this habit. The learned counsel would further submit that in any event, even if the allegations in the impugned final report are accepted to be true, the offence under Section 306 I.P.C., is not made out. The impugned final report does not state as to how and in what manner the petitioner had abetted the commission of suicide. Even according to the final report, some third parties who accompanied the petitioner attacked the deceased with hands, and that would not make out a case of abetment of suicide.



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4.The learned Additional Public Prosecutor submitted that the deceased was beaten up by the petitioner and others and unable to bear the torture, he had committed suicide. There are allegations and materials in the impugned final report and hence, the matter has to be adjudicated only in the trial Court and prayed for dismissal of the quash petition.

5.Heard Ms.J.Sudeksha, the learned counsel for the petitioner and Mr.A.Damodaran, the learned Additional Public Prosecutor appearing for the respondent.

6.Admittedly, the deceased had committed suicide at about 3.30 AM by pouring petrol and self-immolating himself. The alleged occurrence of beating took place at about 1:00 AM. Thereafter, the deceased had complained to the police and according to the deceased, in his suicide note since the police did not turn up one Kiruba again came and attacked him and unable to bear the torture, he committed suicide.



7.The statement of L.W.1, the wife of the deceased shows that the deceased was in the habit of consuming alcohol and picking up quarrel with her almost on a daily basis. The fact that the deceased was a drunkard is confirmed by the statement of L.W.2 who was working as night supervisor in private company. The accident register filed along with the final report also confirms that the breath of the deceased, smelt of alcohol when he was examined at about 3:30 AM. Be that as it may. The allegations in the impugned final report are that one Kiruba attacked the deceased just before he self-immolated himself. There is nothing in the impugned final report to show that the conduct of the petitioner was such that the deceased was subjected to such harassment that he had no other option except to commit suicide. The allegations do not suggest that the petitioner had committed any of the acts which would fall within the meaning of abetment under Section 107 I.P.C. The prosecution has not been able to show the requisite intention on the part of the petitioner to commit the offence of abetment of suicide. Even if the allegations in the impugned final report are accepted to be true, the offence under Section 306 of I.P.C., is not made out as against the petitioner. That apart, the impugned final report itself states that the deceased was in an inebriated condition at the time of occurrence. Merely because the deceased has given a



dying declaration that he had committed suicide because of the attack by the petitioner and others, it would not amount to abetment of suicide. It is the conduct of the accused that is relevant to determine whether the offence of abetment is made out and not the perception or the decision taken by the victim. In fact, the deceased had accused even the police for not acting on his complaint which prompted him to commit suicide. If his statement is accepted as such then, the police also should be made an accused which would be an absurd interpretation of the law.

8. In order to constitute the offence of instigation, this Court had earlier summed up the principles in ***Latha Sharma and another vs. State of Tamil Nadu and others*** reported in ***2023-1-L.W.(Crl)*** as follows:

“Thus, from the above observations. the following principles emerge for appreciating "instigation" in the context of an offence under Section 306 IPC:

(i) To satisfy the requirement of instigation, the act of the accused must be such that it must necessarily and specifically be suggestive of the consequence. In other words, if the accused by his act or omission or by a continuous course of conduct created such



circumstances that the deceased was left with no option except to commit suicide, then instigation can be inferred.

(ii) Instigation means to goad, urge forward, provoke, incite or encourage to do a thing.

(iii) The allegation against the accused that his acts led to the commission of suicide by the deceased must be proximate in the time of occurrence and had led the deceased to commit suicide.

(iv) If it transpires to the Court that the victim who committed suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged, such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide. then instigation cannot be inferred.”

By applying the above principles to the facts of the instant case, there is nothing to suggest that the accused is liable for abetment of suicide. The other offences are also not made out against the petitioner.

9. For all the above reasons, the impugned final report against the petitioner is liable to be quashed and hence, quashed.



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10. Accordingly, the criminal original petition is allowed. Consequently connected miscellaneous petition is closed.

17.03.2023

dk/ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

SUNDER MOHAN, J

dk/ay

To

1. The Principal and District Sessions Judge
Chennai.

2. The Inspector of Police,
H3, Thandaryarpet Police Station,
Chennai – 81.

Pre-delivery order in

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and

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3.The Public Prosecutor
High Court of Madras
Chennai – 600 104.

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