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Crl.OP.No.22719 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

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

Crl.OP.No.22719 of 2021
and Crl.MP.Nos.12367 & 12369 of 2021

Guna

... Petitioner

Vs.

1.The State rep by
Inspector of Police,
Pudhuchatram Police Station,
Cuddalore District
(crime No.240 of 2017)

2.Anuradha

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to the case in SC.No.298 of 2022 on the file of the learned II Additional District and Sessions Judge, Chidambaram and to quash the same as far as the petitioner is concerned.

(amended as per order dated 13.07.2023 made in Crl.MP.No.9752 of 2023 in Crl.OP.No.22719 of 2021)

For Petitioner

: Mr.G.Pugazhenth

For Respondents

For R1

: Mr.A.Gopinath,
Government Advocate(Crl.side)

For R2

: No appearance



CrI.OP.No.22719 of 2021

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the proceedings in SC.No.298 of 2022 on the file of the learned II Additional District and Sessions Judge, Chidambaram, thereby taken cognizance for the offences under Section 306 of IPC as against the petitioner.

2. The case of the prosecution is that on the complaint lodged by the second respondent, FIR was registered in crime No.240 of 2017 under Section 174 of Cr.P.C. wherein it was alleged that while her husband was returning to home after attending a marriage by a Government bus on 04.09.2017 at about 9 p.m., there was a quarrel between her husband and the first accused. After getting down from the bus, the first accused assaulted her husband. Both of them rolled down. Thereafter, other persons Kathir, Sivan, Guna and Sadhasivam gathered and had come to their home and assaulted her husband. On 05.09.2017, at about 7 a.m., son of the first accused i.e. Kathir and one, Jawahar came to their house and locked her in the house and threatened to commit murder of her husband. On the same day evening, her husband went away stating that he is going to his sister's house. However, on 06.09.2017, one person informed that her husband committed suicide by hanging in a tree. After 3 days, the second respondent released a suicidal note. On receipt of the same,



Crl.OP.No.22719 of 2021

the first respondent altered the offence into under Section 306 of IPC. After completion of investigation, they filed final report for the offence punishable under Section 306 of IPC and the same has been taken cognizance by the trial court against six accused persons.

3. The learned counsel for the petitioner would submit that the petitioner is arrayed as fourth accused. Even according to the defacto complainant, no specific averment as against the petitioner to abet the deceased to commit suicide. No prima facie material was available to file a charge sheet as against the petitioner. Even assuming that the petitioner went to the house of the deceased, that too only on 05.09.2017, whereas the deceased committed suicide on 06.09.2017. Therefore, soon before his death, there was no instigation by the petitioner to commit suicide. He further submitted that the alleged suicidal note was produced by the second respondent, that too after period of three days. However, it was not subjected for any handwriting expert opinion since no admitted documents are available to compare the handwriting found in the suicidal note. Even as per the suicidal note, there was no specific allegation as against the petitioner to attract the offence under Section 306 of IPC.



CrI.OP.No.22719 of 2021

4. The learned Government Advocate(crl.side) appearing for the first respondent submitted that there are totally six accused and all the accused persons are having clear overt act to attract the offence under Section 306 of IPC. On 04.09.2017, there was a quarrel between the first accused and the deceased while the deceased was returning to home from a marriage. Therefore, the son of the first accused and others including the petitioner came to the house of the deceased and threatened with dire consequences. Therefore, the deceased got scared about their indulgence and committed suicide by hanging. That apart, the grounds raised by the petitioner can be considered only during the trial by the trial court.

5. Heard, the learned counsel appearing on either side.

6. There are totally six accused, in which the petitioner is arrayed as the fourth accused. On 04.09.2017, when the deceased returned to his home after attending a marriage, there was a quarrel between the first accused and the deceased. In continuation of the said quarrel, other accused persons went to his house and threatened with dire consequences. On 06.09.2017, he committed suicide by hanging himself in a tree. Initially, the first respondent registered FIR under Section 174 of Cr.P.C. After receipt of the suicidal note



Crl.OP.No.22719 of 2021

released by the second respondent, on 09.09.2017, the first respondent altered the offence into under Section 306 of IPC and filed final report. As far as the petitioner is concerned, she is arrayed as the fourth accused. She is no way connected with the other accused persons. She belongs to the same village and as such she has been roped in to this case. Even according to the second respondent, the petitioner along with the other accused persons came to her house and had beaten her and threatened her with dire consequences. No specific pleadings as against the petitioner. That apart, there is no evidence to show that the petitioner had intention to instigate or abet the deceased to commit suicide. Further, admittedly suicidal note was not subjected for any handwriting expert opinion. Even assuming that the said suicidal note is genuine one, from the reading of the suicidal note, it is not possible to conclude that the deceased was personally known to the petitioner and she had grudge against the deceased to instigate /abet to commit suicide. It is relevant to extract provision under Section 107 of IPC hereunder:

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,*



Crl.OP.No.22719 of 2021

and in order to the doing of that thing; or Thirdly Intentionally aids, by any act or illegal omission, the doing of the thing.

Explanation 1: A person who, by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Section 306 I.P.C. reads thus:

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.

7. A reading of the above said two sections makes it crystal clear that the ingredients contemplated under the above said sections are not made out by the materials available on record in this case. The Hon'ble Supreme Court has held in the case of **Randhir Singh v. State of Punjab (2005 Supreme Court Cases (Cri) 56)** as follows:-

" Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before



Crl.OP.No.22719 of 2021

a person can be said to be abetting the commission of offence under [Section 306 I.P.C.](#)"

8. Therefore, as per the decision of the Hon'ble Apex Court as stated above, there should be an active role played by the accused, which can be described as instigating or aiding to commit the suicide. In the instant case, there is absolutely no material available on record to show that the petitioner played active role, which can be described as instigating or aiding the deceased to commit suicide. Even the only piece of material available on record viz. the suicidal note does not disclose the above said ingredients constituting the offence under Section 306 I.P.C.

9. Further, the suicidal note did not specifically refer about the conduct of the petitioner and it does not disclose that the petitioner has committed any wilful act or omission or intentionally aided or instigated the deceased in committing the act of suicide.

10. In view of the above discussion, the impugned proceedings cannot be sustained and it is liable to be quashed. Accordingly, the entire proceedings in SC.No.298 of 2022 on the file of the learned II Additional District and Sessions Judge, Chidambaram is quashed as against the petitioner alone and this criminal original petition is allowed. Consequently, connected



CrI.OP.No.22719 of 2021

miscellaneous petitions are closed.

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17.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

- 1.The learned II Additional District and Sessions Judge,
Chidambaram
- 2.Inspector of Police,
Pudhuchatram Police Station,



Ctrl.OP.No.22719 of 2021

Cuddalore District

3.The Government Advocate,
High Court of Madras

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G.K.ILANTHIRAIYAN, J.

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CrI.OP.No.22719 of 2021

CrI.OP.No.22719 of 2021

17.11.2023