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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP(MD)No.5992 of 2023

and

Cr1.MP(MD)Nos.5260 and 5261 of 2023

P.Rajangam : Petitioner/Sole Accused

Vs.

1.Inspector of Police,
Koodakovil Police Station,
Koodakovil,
Madurai District. : 1st Respondent/Complainant

2.M.Jothilingam : 2nd Respondent/De-facto
Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in SC No.29 of 2023 on the file of the Assistant Sessions Judge, Thirumangalam and quash the same illegal and pass such further or other orders.

For Petitioner : Mr.S.Muthukumar

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition is filed seeking quashment of the case in SC No.29 of 2023 on the file of the Assistant Sessions Judge, Thirumangalam.

2.The case of the prosecution in brief:-

The de-facto complainant had three childrens among which one Amirthavalli was willing to go for driver job. Since the accused Rajangam was known to him, he approached him for help. He assured that job can be arranged, if Rs.3,00,000/- is paid to him. So in beginning of 2011, he gave Rs.50,000/- to the accused in cash. Again, Rs.50,000/- was given to him by borrowing money from one Murugan. Again, gave Rs.60,000/- and later, Rs.90,000/-. Totally till 2015, he gave Rs.3,00,000/- to the accused. It was also informed that like him, the above said petitioner herein received several amounts from several persons promising to secure job. But the accused was delaying the job arrangement. Later, started abusing. Because of the delay, his son was also in a highly depressed mood, so also the family. On 01/11/2015 at about 11.00 am, the deceased attacked the



petitioner to return the same. The accused promised to return the amount within a short time. At that time, one Kathiresan was also present with his son. Because of the above said continuous delay and non returning of the amount by the accused, he committed suicide by taking poison. On the basis of the above said occurrence lodged a complaint, over which, originally a case in Crime No.183 of 2015 under section 174 Cr.P.C was registered. After completing the investigation, it was found that because of the abetment that was made by this petitioner, Amirthavalli committed suicide. So the case was altered to 306 IPC.

3.Pending committal process, this petition has been filed by the petitioner stating that even as per the allegation made in the FIR as well as in the final report, proximate cause for the death is not the alleged abetment. According to the petitioner, the ingredients of the offence under section 306 IPC are not attracted.

4.Heard both sides.



5. Notice was not ordered to the petitioner, since this court thought it fit to dispose this petitioner on its merit at the admission stage itself.

6. As mentioned in the preamble portion, it is seen that that the petitioner received Rs.3,00,000/- promising to secure a job for the deceased. It appears that it continued for about several years. Slowly, the petitioner received money from the de-facto complainant and later, failed to secure job and also failed to return the money. This is the factual background.

7. Entire CD file has been called for and perused.

8. The death is not a natural one, but due to poisoning. On 11/11/2015 at about 11.00 am, the deceased alleged to have attacked the petitioner, demanding return of the money. But in the night hours, he has taken poison. So according to the learned Additional Public Prosecutor, last time attempt made by the deceased with the petitioner will show that the proximate cause for the above said suicide is nothing, but continuous circumstances, which was created by the petitioner the



deceased to commit suicide, ultimately, on 01/11/2015. So even according to the learned Additional Public Prosecutor, it is sufficient enough to direct the petitioner to undergo the trial process.

9.Per contra, as mentioned above, even as per the allegation made in the final report and in the complaint, from 2011 to 2015 money was paid in installment basis by the de-facto complainant; So, it cannot be construed as causing abatement or creating circumstances, which drove the deceased to commit suicide.

10.Section 107 IPC reads as follows:-

"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.

Explanation1.-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."

11. Section 306 IPC reads as under:-

"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."

12. Reading of sections 107 and 306 IPC would show that there must be positive material to show that this petitioner abetted the commission of suicide. It is a factual issue.



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13. Whether this petitioner has created circumstance, which drove the deceased to commit suicide is entirely depending upon the oral evidence to be adduced by the prosecution before the trial court at the time of trial. Creation of circumstances cannot be a matter for consideration by this court sitting under section 482 Cr.P.C jurisdiction.

14. Reading of the CD file shows that enough materials have been collected during the course of investigation, to implicate this petitioner into the above said abetment of suicide. So, I am of the considered view that since sufficient materials are available against the petitioner, the trial must be taken to its logical conclusion. Except setting out the factual grounds, no other ground worth considering, which are sufficient to quash the proceedings, either made out or mentioned in the petition. So, I am of the considered view that this is not a fittest case to quash the proceedings.

15. The Hon'ble Supreme court in the case of **Ramesh Kumar vs. State 2001(9) SCC 618** has observed that the



accused might have by his own act or by the continuous course of conduct, creates such a situation, for which the deceased was left with no other option but to commit suicide must be available. So, those things will be construed as 'explanation'. When we apply the above said case, as mentioned earlier, whether the act of the petitioner in continuously denying to secure the job having received sufficient amount from his father and even refused to return the same was sufficient enough to say that it comes under the definition of abetment. It is completely a matter for consideration by the trial court.

16. In view of the above, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

28/04/2023

Index: Yes/No
Internet: Yes/No
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To,



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1. The Assistant Sessions Judge,
Thirumangalam,
Madurai District.
2. The Inspector of Police,
Koodakovil Police Station,
Koodakovil,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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