



Crl.O.P(MD).No.8493 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.8493 of 2019

and

Crl.M.P(MD) No.5343 of 2019

Raja

...Petitioner/Sole Accused

Vs

1.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
Crime No.226 of 2019

2.Velumail

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the proceedings in Crime No.226 of 2019 on the file of the first respondent police station and quash the same as it has no prima facie case as against the petitioner.

For Petitioner

: Mr.Ananth C.Rajesh

For R1

: Mr.M.Sakthikumar
Government Advocate (Crl. side)

For R2

: Mr.M.Ashok Padmaraj



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in Crime No.226 of 2019 on the file of the first respondent police

2.According to the petitioner, the prosecution case is that one Velumail S/o Bagavathi Asari, lodged a complaint before the first respondent police by stating that his son is working as an Assistant Manager in the L & T Finance Limited, Kattayanvilai Branch, Nagercoil, Kanyakumari District. He was continuously tortured and threatened by his superior with the help of rowdies. In view of the above torture, his son committed suicide by hanging himself in his house and the same was seen by his mother when she returned home. This was informed to the de-facto complainant and he lodged the above complaint on 08.06.2019 before the first respondent police and the first respondent police registered a case in Crime No.226 of 2019 for the offence under Section 306 of IPC. In fact, the petitioner is Meeting Center Manager, whose profile includes to verify the documents for lending loan, recovery of loan given to the customers and report the sales and collections numbers to the Regional Manager of L & T Finance. The petitioner being the Meeting Centre Manager, six persons are reporting to him and the deceased was one among them. The deceased joined in this team only in the month of March 2018 and



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after that several complaints were received from the customers that the collected amounts from the customers were not deposited with the petitioner in turn to deposit with the company. When the Finance Company questioning about the shortfall in the collection with the petitioner, he started investigation and found that the irregularity was committed by the deceased. When the same was questioned on 10.05.2019 without any answer, he has stopped to come for the work. The Human Resource Department had sent a warning letter to the deceased on 17.05.2019 for his unauthorised absence from 11.05.2019 and directed him to report to the duty within 72 hours. The said letter was received by the deceased on 22.05.2019. After the said letter, he has not turned up to the duty and there is no reply from him. In view of the above, the HR Department had terminated him from service by letter dated 25.05.2019 and the same was also acknowledged by the deceased on 30.05.2019. The deceased apprehending recovery and committed suicide only on 08.06.2019. The father of the deceased made a complaint before the first respondent police and the first respondent police also registered the First Information Report for the offence under Section 306 of IPC. Hence, this petition.

3.The learned counsel appearing for the petitioner would contend that the deceased was unauthorisedly absent from 11.05.2019 and thereby issued warning letter dated 17.05.2019 and the same was received by him on



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22.05.2019. Thereafter, he never returned to his work and then on 25.05.2019,

another letter was issued for his termination and the same was also acknowledged by the deceased on 30.05.2019. In the meantime, the deceased died on 08.06.2019 and on the date of death of the deceased, he was not at all working in the petitioner's company. Even according to the FIR, there are no averments to constitute the offence under Section 306 IPC, thereby, the FIR is liable to be quashed. To support his contention, he relied upon the Judgments of the Hon'ble Supreme Court of India in **(i) Madan Mohan Singh Vs. State of Gujarat and Anr** reported in **2010 (8) SCC 628** and **(ii) Vaijnath Kondiba Khandke Vs. State of Maharashtra and Another** reported in **2018 (7) SCC 781**.

4.The learned counsel appearing for the second respondent would contend that the case is at initial stage. Without elaborate investigation, this Court cannot decide the veracity of the FIR and the FIR is also not an encyclopedia to state all the things and the offence alleged against the petitioner is severe in nature. In this case, there is a suicide note and that also has to be investigated elaborately and after investigation only, the truth will come. Thereby at the initial stage, this Court cannot invoke the provision under Section 482 of Cr.P.C to quash the impugned FIR.



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5.The learned Government Advocate (Crl. side) appearing for the first respondent would contend that the case is under investigation and there is a suicide note and as per the suicide note, prima facie case has been made out and there are some allegations as against the petitioner and it needs elaborate investigation and thereby at this stage, the petition is not maintainable and it is liable to be dismissed.

6.This Court heard the arguments advanced by the either counsel appearing for the petitioner and the respondents.

7.On perusal of the records, it shows that the First Information Report has been registered as against the petitioner for the offence under Section 306 IPC. According to the contents of the FIR, the petitioner, namely, Raja continuously tortured the son of the de-facto complainant and threatened with unruly elements and thereby, induced to commit suicide and also wrote about the suicide note. According to petitioner, these averments of the FIR will not constitute the offence under Section 306 IPC and thereby, the FIR is liable to be quashed. To support his contention, the learned counsel appearing for the petitioner relied upon the Judgment of the Hon'ble Supreme Court of India in ***Madan Mohan Singh Vs. State of Gujarat and Anr reported in 2010 (8)***

SCC 628, wherein, the Hon'ble Supreme Court held that:

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“..7.We have gone through the suicide note though it is not yet on record. Shri Tulsi pointed out that even if this suicide note is accepted as it is, along with the FIR, no ingredients of Sections 306 and 294(b), IPC could be spelt out from the same. We have gone through the whole FIR as well as the so-called suicide note which seems to have been signed on 04.02.2008 wherein he had complained about the stale incidents dated 15.10.2007 to 19.10.2007. It seems that it is 17 days after that, that he was found dead 23.02.2008. It is claimed by his wife Harshida Ben that she got a call from the Gujarat High Court informing her that a suicide note was found and that she should search for such note in her house subsequent to which she claimed to have found the suicide note bearing the signature of the deceased, thus bringing the origin of alleged suicide note under the cloud of suspicion.”

He further relied upon the Judgment of the Hon'ble Supreme Court of India in ***Vaijnath Kondiba Khandke Vs. State of Maharashtra and Another*** reported in **2018 (7) SCC 781**, wherein, the Hon'ble Apex Court held that:

“..8.In the backdrop of these two lines of cases, we have gone through the material on record. There is no suicide note left behind by the deceased and the only material on record is in the form of assertions made by his wife in her reporting to the police. It is true that if a situation is created deliberately so as to drive a



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*person to commit suicide, there would be room for attracting Section 306 IPC. However, the facts on record in the present case are completely inadequate and insufficient. As a superior officer, if some work was assigned by the applicant to the deceased, merely on that count it cannot be said that there was any guilty mind or criminal intent. The exigencies of work and the situation may call for certain action on part of a superior including stopping of salary of a junior officer for a month. That action simplicitor cannot be considered to be a pointer against such superior officer. The allegations in the FR are completely inadequate and do not satisfy the requirements under Section 306 IPC. In our view, the facts in the present case stand on a footing better than that in **Madan Mohan Singh** (supra) and there is absolutely no room for invoking provisions of Section 306 IPC. We are of the firm view that the interest of justice demands that the proceedings initiated against the appellant are required to be quashed.”*

As far as the Judgments submitted by the petitioner are concerned on careful reading of the above judgments, it is clear that if the FIR did not disclose any commission of offence under Section 306 IPC and the said FIR is liable to be quashed.

8.Per contra, the learned counsel appearing for the second respondent has relied upon the Judgment of the Hon'ble Supreme Court of India in



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Neeharika Infrastructure Pvt Ltd. Vs. State of Maharashtra and Others

WEB REPORTED in **2021 SCC Online SC 315**, wherein, the Hon'ble Supreme Court of

India formulated the guidelines in quashing the FIR and complaint under Section 482 of Cr.P.C. and under Article 226 of the Constitution of India in Paragraph Nos.(ii), (v), (vi), (vii), (viii), (xii) and (xv), which reads as follows:

“...(i).....

(ii) *Courts would not thwart any investigation into the cognizable offences;*

(iii).....

(iv).....

(v) *While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*

(vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

(vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

(viii) *Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate 59 WWW.LIVELAW.IN LL 2021 SC 211 in two specific spheres of activities and one ought not to tread over the other sphere;*

(ix).....

(x).....

(xi).....



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(xii) *The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;*

(xiii).....

(xiv).....

(xv) *When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;”*

9. On careful reading of the Judgments, it is clear that this Court while exercising the powers under Section 482 of Cr.P.C, should be exercised



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sparingly with circumspection, as it has been observed, in the rarest of rare

cases. Further, while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint and the criminal proceedings ought not to be scuttled at the initial stage. In the case at hand also, the petitioner challenged the FIR, which is in initial stage. As the guidelines framed by the Hon'ble Supreme Court in the Judgment in ***Neeharika Infrastructure Pvt Ltd. Vs. State of Maharashtra and Others***, this Court has to use the power of under Section 482 of Cr.P.C., sparingly and criminal proceeding ought not to be scuttled at the initial stage. Though the Judgments relied by the petitioner are relating to the averments in the FIR, the Full Bench Judgment of the Hon'ble Supreme Court of India categorically framed the guidelines. According to the guidelines, this Court need not quash the FIR in the present case and it has to be elaborately investigated, since the suicide note is also involved in this case. Therefore, by relying the Judgment of our Full Bench of our Hon'ble Apex Court, this Court is declined to quash the FIR at this stage and the petition is dismissed.

10. At this juncture, the learned counsel for the second respondent sought for direction to expedite the investigation process.



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11.Considering the above, the first respondent is directed to complete the investigation as early as possible within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

14.07.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

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To

The Inspector of Police,
Kottar Police Station,
Kanyakumari District.



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P. DHANABAL,J.

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