



Crl.O.P.(MD) Nos.13302 & 11179 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
22.09.2023	29.09.2023

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) Nos.13302 & 11179 of 2023
and Crl M.P (MD) Nos.10384, 10385, 8874 & 8875 of 2023

Crl.O.P.(MD) No.13302 of 2023

1. Ponmurugan
2. Muthusamy
3. Petchiyammal
4. Jeyachandrapandiyan
5. Jeyalakshmi
6. Ponnupandi
7. Vellaisamy
8. Chandran
9. Chinnasamy
10. Prabhakaran
11. Navaneethan
12. Senthilkumar

... Petitioners

Vs.

1.The Deputy Superintendent of Police,



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Kamuthi Sub Division,
Ramanathapuram District.

2. The Sub Inspector of Police,
Kamuthi Police station,
Ramanathapuram District.
Crime No. 641/2020

3. M.Senthurpandiyan

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned Charge sheet made in S.T.C No. 1439 of 2022 on the file of the District Munsif cum Judicial Magistrate, Kamuthi and quash the same as against the petitioners concerned.

For Petitioners : Mr.M.Sam Eugene Jebakumar

For R1 & R-2 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD) No.11179 of 2023

1. Singaraj
2. Umaiyapandiyan @ Senthil
3. Kumaraguru
4. Ayyanar

... Petitioners

Vs.

- 1.The Deputy Superintendent of Police,
Kamuthi Sub Division,
Ramanathapuram District.
2. The Sub Inspector of Police,



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Kamuthi Police station,
Ramanathapuram District.
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3. M.Senthurpandiyar

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PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned Charge sheet made in S.T.C No.1439 of 2022 on the file of the District Munsif cum Judicial Magistrate, Kamuthi and quash the same as against the petitioners concerned.

For Petitioners : Mr.M.Arikaran

For R1 & R-2 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions are filed under Section 482 of Cr.P.C. seeking quashment of charge sheet in ST.C.No.1439 of 2022 on the file of the District Munsif cum Judicial Magistrate, Kamuthi, registered against the petitioners for the offence under Sections 201 and 176 I.P.C.

2. According to the prosecution version, the deceased Gurudevi was having some mental health issues and was not doing any work. Gurudevi was taken to a priest in the Pudur Village and who offered her holy ashes, thereby, she



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became normal. In the year 2020, her marriage was performed however after some time, she came back to her maternal home. Again, she was affected with mental disorder.

3. On 27.11.2020, husband of the deceased Gurudevi, by name, Ponmurugan, asked Gurudevi to give food to his father and she remained silent and did not give the food. On the same day i.e., 27.11.2020 at about 10.30 A.M., in the upstairs of her house, Gurudevi self-immolated by pouring kerosene on herself and her son. The accused have cremated the dead bodies of both the deceased without informing to either Police officials or the revenue officials. Accordingly a case has been registered against the petitioners in Crime No.641 of 2020 on the file of the respondent Police and after investigation, charge sheet is filed in S.T.C.No.1439 of 2022 on the file of the learned District Munsif cum Judicial Magistrate, Kamuthi, against the petitioners / accused persons.

4. It is submitted by learned counsel for the petitioners that the deceased has committed suicide on account of mental health issues and the petitioners had nothing to do with alleged offence. The contention of the petitioners is that in respect of offence under Section 176 of I.P.C., the respondent Police cannot file a



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report as there is a bar under Section 195 of Cr.P.C. In respect of Section 201 of I.P.C. it is submitted by learned counsel for the petitioners that it cannot be an independent witness unless it is associated with the other offence.

5. Learned Additional Public Prosecutor submits that there is a material against the petitioners under Section 201 of I.P.C.

6. Heard both sides and perused the records.

7. The allegation against the petitioners is that the deceased, by name, Gurudevi was having mental disorder and on 27.11.2020 at about 10.30, A.M., the deceased went to her room in the upstairs and self-immolated by pouring kerosene on herself and her son thereby, both of them died. The petitioners including the husband of the deceased / A1 have instead of informing the death to the Police and the revenue officials, burnt the body of the deceased and her son causing disappearance of evidence.

8. There is no allegation or the charge against the petitioners that the petitioners/accused are responsible for the death of the deceased. According to the investigation, the deceased died on account of her mental unsoundness. It is



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also the case of the prosecution that even prior to her marriage, she was mentally unsound and that she was taking treatment. According to the prosecution, the petitioners tried to screen the evidence with regard to the death of the deceased, thereby, they have committed offence under Sections 201 and 176 of I.P.C.

9. Section 176 of I.P.C. runs as under:

“176. Omission to give notice or information to public servant by person legally bound to give it —

Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both, or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple



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imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, or, if the notice or information required to be given is required by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898) with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

10. In order to fix the petitioners/accused for the charge of offence under Section 176 I.P.C., the prosecution is supposed to place material evidence that the petitioners have failed to intentionally furnish the information, to the public servant, which the petitioners are under the obligation to give. In the case on hand, according to prosecution, the petitioners, were under the obligation to give the information with regard to death of both the deceased to the Police or to the revenue officials, but intentionally failed to give information. Whenever a suspicious death occurs, normally, the respondent Police would register a case under Section 174 of Cr.P.C. and that the learned Executive Magistrate will an enquiry in respect of the death of the deceased. In the case on hand, the public



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servants to whom the petitioners are expected to intimate about the death of the deceased have not informed about the death of the deceased.

11. However, as per Section 195(1)(a)(i) Cr.P.C. there is a bar in taking cognizance of this offence by the Court, unless, a complaint is filed by the public servant, to whom the petitioners were supposed to report about the death of the deceased. In this case the Revenue Officials or Police have not filed any complaint against the petitioner/accused. Further, there is no allegation that the petitioner have deliberately failed to inform about the death of the deceased. Therefore, the charge sheet in so far as under Section 176 of I.P.C., can be quashed by this Court.

12. Section 201 of I.P.C. runs as under:

“201. Causing disappearance of evidence of offence, or giving false information to screen offender —

Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that



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intention gives any information respecting the offence which he knows or believes to be false;

If a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

If punishable with imprisonment for life.—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

If punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both."



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13. In order to prove the offence under Section 201 of I.P.C., the prosecution has to prove that the petitioners knowing that an offence has been committed, caused disappearance of evidence with an intention to screen the offender from the legal punishment. Then, Section 201 of I.P.C. will be attracted against the petitioners.

14. On careful reading of the above provision, it is clear that Section 201 I.P.C. does not apply to the persons, who allegedly committed the offence. It can be applied only to the persons other than the accused, who committed the offence. That means, if a person who commits the offence takes the assistance of an another person who is not connected with the offence in screening the evidence than the person who has helped the accused in screening the evidence will be liable under Section 201 I.P.C. In the case on hand, the petitioners are the persons, who alleged to have committed the offence under Section 176 I.P.C., and not the persons, who helped the other accused, who committed the offence. Thereby, Section 201 I.P.C. is not applicable to the facts of the case.



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15. Even otherwise, in order to punish the accused for the offence under Section 201 I.P.C., some offence must have been committed and in order to screen away the evidence in respect of that offence, evidence must have been screened. In the case on hand, the petitioners are charged with two offences. However, there are no ingredients to say the offence under Section 176 of I.P.C. is committed. Therefore, unless a substantive offence is alleged to have been committed by the person other than the petitioners, the offence under Section 201 of I.P.C., cannot be charged.

16. Further in respect of offence under Section 176 I.P.C. is concerned, the sentence that can be awarded is to the extent of six months imprisonment. As per Section 468 (2) (a) of Cr.P.C. the charge sheet has been filed within one year from the date of issuance of FIR, The FIR is registered on 27.11.2020, however, the charge sheet is filed only on 05.07.2022, thereby, the charge sheet is beyond one year hence on this count also the offence under Section 176 of I.P.C. is required to be quashed.

17. In view of the above discussion, the Charge sheet in S.T.C No. 1439 of



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2022 on the file of the District Munsif cum Judicial Magistrate, Kamuthi, registered against the petitioners is hereby quashed.

18. Accordingly, the Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
tsg

29 .09.2023

To

- 1.The District Munsif cum Judicial Magistrate,
Kamuthi, Ramanathapuram.
2. The Deputy Superintendent of Police,
Kamuthi Sub Division,
Ramanathapuram District.
3. The Sub Inspector of Police,
Kamuthi Police station,
Ramanathapuram District.
Crime No. 641/2020

4.The Additional Public Prosecutor,

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Madurai Bench of Madras High Court, Madurai.

DR.D.NAGARJUN. J.

tsg/jai



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**-Pre-Delivery Order made in
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29.09.2023