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CRL. R.C. No.805/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
03.06.2024	12.06.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. R.C. NO. 805 OF 2024

Vijayalakshmi

.. Petitioner

- Vs -

1. The State, rep. by
The Inspector of Police
Velankanni Police Station
Nagapattinam District.

2. Rajendiran
3. Shanthi
4. Sivanandhini
5. Sibiraj
6. Silambarasan

.. Respondents

Civil Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure praying to set aside the impugned order in Crl. M.P. No.756 of 2023 in RCS No.65 of 2023 in Crime No.36 of 2022 on the file of the learned District Munsif-cum-Judicial Magistrate, Kivelur and direct the 1st respondent to proceed



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the complaint in Crl. M.P. No.756 of 2023 before the learned District Munsif-cum-Judicial Magistrate, Kivelur.

For Petitioner : Mr. R.Sankarasubbu

For Respondents : Mr. A.Gopinath, GA (Crl. Side)
for R-1

ORDER

Aggrieved over the order of the learned District Munsif-cum-Judicial Magistrate dismissed the complaint in Crl. M.P. No.756/2023 filed by the petitioner, vide order dated 6.7.2023, the present revision has been filed assailing the said order.

2. The brief facts of the case leading to the filing of the aforesaid complaint are as under :-

It is the case of the petitioner that her son, viz., Aravind Kumar and the 4th respondent herein, viz., Sivanandhani, were in love with each other and due to the persistent pestering of the 4th respondent, the petitioner's son, since deceased and the 4th respondent, left their village and left their village on



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11.1.2022 and went to Nagore and got married, since the parents of the 4th respondent were not willing for the said marriage. It is the further case of the petitioner that on 13.1.2022, respondents 2, 3, 5 and 6 came to the house of the petitioner and assaulted her and her daughter and her daughter, who was physically challenged, was sexually harassed by the 5th and 6th respondent and the said respondents left the place threatening the petitioner and her daughter with dire consequences.

3. It is the further case of the petitioner that the complaint submitted by her to the law enforcing agency did not evoke any response and contrarily, the Sub Inspector of Police threatened the petitioner favouring the respondents. It is the further case of the petitioner that on 19.1.2022, during night hours, the petitioner's son, Aravind Kumar and the 4th respondent were dragged to the police station and through the high-handed acts of the 1st respondent, the Mangalsutra tied by the petitioner's son to the 4th respondent was forcefully removed and the 4th respondent was allowed to go with respondents 2, 3, 5 and 6. It is the further case of the petitioner that the petitioner and her son were



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abused in filthy language and even demoralised to such an extent so as to contemplate committing suicide.

4. It is the further case of the petitioner that due to the inhuman treatment meted out to the petitioner and her son, both physically and mentally by the respondents, in deep mental agony, turmoil and depression, the petitioner's son, Aravind Kumar committed suicide by hanging himself during the early morning hours of 20.01.2022.

5. It is the further case of the petitioner that the abetment of the respondents had led to the petitioner's son committing suicide and, therefore, the petitioner filed a complaint before the 1st respondent against respondents 2 to 6, but instead the 1st respondent registered the case in Crime No.36/2022 u/s 174 Cr.P.C., instead of registering the case u/s 306 IPC. It is the further grievance of the petitioner that the 1st respondent without conducting proper enquiry, urgently and with mala fide motive, prepared Further Action Drop Notice dated 8.3.2022 in RCS No.2/2022 and filed the same before the learned Judicial Magistrate No.I, Nagapattinam.



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6. It is the further averment of the petitioner that protest petition was filed by the petitioner before the learned Judicial Magistrate No.1, Nagapattinam against RCS No.2/2022 and the learned Judicial Magistrate accepted the petitioner's prayer and passed order dated 2.9.2022 directing further investigation and to file final report within 90 days. In spite of the said directions, no fruitful investigation was conducted prompting the petitioner to file Crl. O.P. No.6718/2023 before this Court seeking direction to file the final report within a stipulated time frame and this Court, vide its order dated 27.3.2023, recording the submission of the learned Government Advocate that the final report would be filed within one month, closed the petition.

7. It is the further averment of the petitioner that in utter disobedience of the order, once again, the 1st respondent filed Further Action Drop report and the learned Judicial Magistrate, after issue of notice to the petitioner dated 13.6.2022 in RCS No.65/2023 and on the protest petition in Crl. M.P. No.756/2023, dismissed the petition on 6.7.2023 holding that no case is made out. Challenging the same, the present revision is filed.



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8. Learned counsel appearing for the petitioner submits that the order passed by the court below clearly show cases the collusion between the respondents as inspite of the direction of the court below, Further Action Drop report has been filed once again. It is the further submission of the learned counsel that the court below, without advertng to the FIR had passed the impugned order holding that there are no external injuries. It is the submission of the learned counsel that the abusive and filthy language used against the petitioner's son had driven him to his end to end his life by hanging, which is the ingredient of Section 306 IPC and there is no necessity for any external injuries to be present or any proof thereof to be submitted by the petitioner to substantiate the same. The court below has grossly erred in appreciating the case of the petitioner as is based on the FIR and gone on a tangent by appreciating the statement of the witnesses and had dismissed the petition filed by the petitioner, which requires to be interfered with by this Court so as to secure the ends of justice.



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9. Per contra, learned Government Advocate (Crl. Side) appearing for the 1st respondent, placing the original case file before the Court submitted that the statement of the witnesses, more especially, the petitioner and her daughter as also the 4th respondent conclusively prove that no threatening was meted out to any of the parties and, in fact, to safeguard all the parties from any ignominy, the 1st respondent had acted in the manner and the death of the petitioner's son by suicide cannot in any manner be attributed to the acts of the respondents, as there is no shred of evidence which points an offence u/s 306 IPC. Appreciating all the above, the court below had rightly dismissed the petition, which does not require any interference at the hands of this court.

10. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the case file produced before this Court.

11. There is no quarrel with regard to the death of the petitioner's son, which is due to suicide by hanging. The only offence, that is alleged by the petitioner is that her son was driven to the end so as to end his life by



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committing suicide by the acts of the respondents as the abuse and filthy language used by the respondents against the petitioner's son coupled with the physical and mental abuse caused by the 1st respondent had driven the petitioner's son to commit suicide and, therefore, an offence u/s 306 IPC gets attracted, which has not been properly appreciated by this Court.

12. A careful perusal of the affidavit filed in support of the present petition as also the complaint, leading to the registration of the FIR reveals that both the documents run parallel and the averments made in both are almost identical. However, it is to be pointed out that FIR is not an encyclopaedia and merely based on the FIR, inference cannot be drawn that whatever is said by the complainant is the gospel truth.

13. Initially, upon filing of final report in RCS No.2/2022 by the 1st respondent by filing a Further Action Drop report, the court below has made the following observation while directing conduct of further investigation :-

"Defacto complainant namely Vijaya Lakshmi appeared. Heard in open court. Case records and objection filed by the said Vijaya



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Lakshmi are duly perused. On perusal of case records, it reveals that the investigation officer has not conducted in respect of some points/facts. Hence in the interest of justice, this court is not satisfied with the final report filed by Investigation officer. Hence the investigation officer is directed to conduct further investigation as per manner known to law and directed to submit his further final report within 90 days before this court as per law.”

14. Upon the direction to conduct further investigation, RCS No.65/2023 had come to be filed, which was, though, after the petitioner had knocked the doors of this Court by filing Crl. O.P. No.6718/2023. Upon the filing of the further report in RCS No.65/2023, appreciating the same, the court below has passed the following order :-

“Perused the records. Heard. This order is pronounced in open court. On perusal of affidavit and sworn statement, the court finds that there appears to be some contradictions in facts and also that there is no criteria to show the commission of the offence as stated by the petitioner. Further, the petitioner had stated that there has been external injuries caused to her son. But on perusal of records and post-mortem report, the court finds that no external injuries has been inflicted to her son and also no proof had been given to substantiate the same. Further the petitioner had only brought upon inference against the respondents. Hence on further perusal



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of case records, the court finds that there is no prima facie to show the commission of an offence u/s 306 IPC and hence this complaint is dismissed u/s 203 of Cr.P.C.”

15. As stated above, the records reveal that at the first instance, the Court below had not accepted the report of the investigating agency, by pointing out that certain facts have not been properly investigated and had directed further investigation. Upon such direction being issued, investigation had been conducted on the lines directed by the court in which witnesses have been examined and their statements have been recorded and, thereafter, additional report has been filed. Appreciating the final report coupled with the statements of the witnesses, the Court below had gone on to hold that though it has been the specific allegation of the petitioner that the deceased was verbally and physically abused, however, there are no indications to show any physical abuse caused to the deceased, as the post-mortem report did not reflect any external injuries as alleged by the petitioner. In fact the court below had gone on to record that inference with regard to abuse attributed by the petitioner cannot form the basis for taking the same as proof of an act perpetrated by the respondents, merely because the deceased had committed suicide. The Court



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below, on application of mind to the materials, rejected the claim of the petitioner for registering a case against the respondents 2 to 6. Not being satisfied with the said order, the petitioner has filed the present revision.

16. In this backdrop, to ascertain whether the order passed by the court below was based on materials, this Court had perused the file produced by the 1st respondent. A perusal of the file reveals that during inquest, number of witnesses were examined, which includes the petitioner, her daughter, the respondents 2 to 6 as also other independent witnesses.

17. A careful perusal of the statements of the aforesaid persons reveal that the deceased and the 4th respondent had appeared before the 1st respondent and in the presence of the elderly persons of both the sides, which included the petitioner and also her brother and respondents 2, 3, 5 and 6 the custody of the 4th respondent was handed over to respondents 2 and 3. Further, a perusal of the statements recorded at the time of inquest reveals that the petitioner has not raised any finger with regard to any verbal or physical abuse to his son. In fact, all the witnesses, including the petitioner and the



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independent witnesses have spoken in unison that to safeguard the interests of both the deceased as well as the 4th respondent, the persons from both the sides allowed the deceased and the 4th respondent to go along with their families. In fact, the statement of the 4th respondent reveals that after their marriage, the deceased and the 4th respondent returned back to their place, as they came to know about the friction between both the families through the telephonic conversation, which the deceased had with his uncle. Further, her statement reveals that as the deceased did not venture out to eke his livelihood, friction arose between the deceased and the 4th respondent and upon coming back, finding that living together would not be conducive, the 4th respondent decided to go along with respondents 2 and 3. There is no whisper from any of the witnesses, including the petitioner that verbal or physical abuse was meted out to the deceased.

18. In fact, it is only through the complaint of the petitioner that such a stand is taken for the first time and in fact, appreciating the necessity for a full-fledged investigation, which did not happen at the first instance, the court below had ordered further investigation, whereinafter, further report was filed, which



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contained the materials and upon appreciating the same, the court below had dismissed the protest petition filed by the petitioner.

19. Through the present revision, the petitioner seeks the indulgence of this Court to appreciate all the materials which have already been appreciated by the court below. Though under revisional jurisdiction, this Court is not required to appreciate the materials afresh, even if such an appreciation is taken up, as has been detailed in a nutshell above, it clearly reveals that the order passed by the court below is based on proper appreciation of materials.

20. In fact, the necessity for further investigation was the outcome of the allegation with regard to physical assault on the deceased. Towards that end, further investigation had been ordered. Upon submission of the final report, the court below, upon perusing the same enlisted that the main allegation of the petitioner was in relation to physical assault meted out to the deceased by the 1st respondent and verbal abuse by all the respondents. However, the allegation of physical abuse has not been made out, as pointed out by the court below, as the post-mortem certificate did not reveal any external injuries. When the specific



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case of the petitioner is that the deceased was physically assaulted, necessarily external injuries should be present, which alone would substantiate the view of physical assault. However, in the absence of any physical injuries, as reflected in the post-mortem report, the court below had gone on to hold that physical assault is only the inference of the petitioner on the basis of what had happened and the physical assault as alleged had not been substantiated.

21. This Court definitely sympathises with the petitioner, as she has lost her beloved son, who had committed suicide. But sympathy of this Court cannot extend beyond a point so as to accede to the prayer of the petitioner to rope in the respondents by fastening the crime against them, as if they had abetted the suicide of the petitioner's son. There should be clinching materials, which unerringly points to an act of abetment by the respondents. However, as stated above, the statement of the witnesses crystallises clearly that there was no verbal or physical abuse, which would have pushed the deceased to commit suicide.



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22. Though the learned counsel for the petitioner strenuously sought to enlist the sympathy of this Court by pointing to the fact that the deceased had committed suicide the very next day he was enquired at the police station and, therefore, all is not well with the manner in which investigation had been conducted and, therefore, the court below ought to have directed further investigation, however, the said submission would not enlist the sympathy of this Court, when the life and liberty of other individuals are also intrinsically connected in the case. Merely because the deceased had committed suicide the very next day of the enquiry and after the 4th respondent had moved away from him cannot be taken to mean that there was abuse by the respondents, viz., the law enforcing agency and the relatives of the 4th respondent, which caused mental turmoil to the deceased driving him to end his life, so as to interpret that there was abetment. The mental state of the deceased could be inferred only from materials and in the absence of any scintilla of evidence pointing to an act of abetment on the side of the respondents and coupled with the fact that there are no external injuries on the deceased so as to infer physical assault meted out to the deceased by the respondents, the mere allegation of the petitioner cannot



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be a ground to hold that there was an act of abetment warranting further investigation.

23. In the aforesaid view of the matter, this Court finds no reason to interfere with the well considered finding recorded by the court below and, therefore, this revision fails and, accordingly, the same is dismissed.

12.06.2024

Index : Yes / No

GLN

To

1. The District Munsif-cum-Judicial Magistrate, Kilvelur.
2. The Public Prosecutor
High Court, Madras.
3. The Inspector of Police
Velankanni Police Station
Nagapattinam District.



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M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
CRL. R.C. NO. 805 OF 2024**

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