



WEB COPY

Crl.O.P.(MD)No.8188 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI\

Crl.O.P.(MD) No.8188 of 2022
and
Crl.O.P.(MD).No.5528 of 2022

1.Shanmugaraj
2.Sudalayandi
3.Perumal
4.Murugeswari
5.Saroja

... Petitioners

Vs.

1.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,
(Crime No.172 of 2019)

2.Veiyilatchi

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in PRC.No.52 of 2022 pending on the file of the learned Principal District and Sessions Court, Tirunelveli and quash the same as against these petitioners.

For Petitioners : Mr.N.Mohideen Basha

For R-1 : Mr.S.Manikandan
Government Advocate
(Criminal Side)



WEB COPY

Crl.O.P.(MD)No.8188 of 2022



For R-2 : Mr.M.Pandian

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in P.R.C.No.52 of 2022 on the file of the learned Principal District and Sessions Court, Tirunelveli, as against the petitioners.

2. The case of the prosecution is that the marriage between the deceased Nanthini and the first petitioner was solemnized on 04.05.2017. Since they have no issues, quarrel arose between them, due to which, the deceased left her matrimonial home and on 13.07.2019, by consuming poison, she committed suicide. Aggrieved over the same, the second respondent, who is the mother of the deceased, made a complaint before the respondent Police and the respondent Police has registered a case in Crime No.172 of 2019 for the offence under Section 174 (3) of Cr.P.C., and thereafter altered into Section 306 IPC and after completing investigation, filed a charge sheet in P.R.C.No.52 of 2022 before the learned Principal District and Sessions Judge, Tirunelveli. Challenging the same, the present petition has been filed.



WEB COPY

3. The learned counsel appearing for the petitioners would submit that the mother of the deceased made a complaint before the respondent Police stating that while the first petitioner and the deceased were living in Chennai, there was a frequent quarrel between her daughter and her son-in-law with regard to childless, due to which, her daughter left the matrimonial home and lived with her and thereafter, her daughter committed suicide in parental home. He would further submit that the necessary ingredients required under Section 306 IPC is that there must be instigation by the accused persons and the same has to be proved by way of documentary evidence, however, there is no such documentary evidence available in this case. In the absence of any such ingredients, implicating the petitioners herein as accused is not sustainable one and hence, he prays for allowing this petition. The learned counsel relies upon the Judgment of the Hon'ble Apex Court in the case of ***Mohit Singhal and another Vs. State of Uttarakhand and Others*** in **Crl.A.No.3578 of 2023**. The relevant portion in the said Judgment is extracted hereunder:

10. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the



amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.

4. The learned counsel appearing for the second respondent would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. The learned Government Advocate (Criminal Side) appearing for the State has adopted the arguments of the learned counsel appearing for the second respondent.

6. It is seen that the marriage between the first petitioner and the deceased was performed in the year 2017 and thereafter, they were



WEB COPY

living in Chennai. Since they had no issues, the petitioners herein harassed the deceased and thereafter, the deceased left her matrimonial home and committed suicide by consuming poison. The above said Judgment relied upon by the learned counsel appearing for the petitioners is applicable to the facts of that case on the ground that there is no proximity in between the deceased and the accused persons for the past two weeks and in that background, the Hon'ble Apex Court quashed the proceedings against the petitioners. However, in the present case, the deceased is not capable to give birth a child and in that reason only, she committed suicide. It shows that there is a proximity between the petitioners and the accused persons.

7. At this juncture, the learned counsel appearing for the petitioners would submit that Accused No.4 is the co-sister of the deceased and there is no serious allegations made against her. He would further submit that there is no *mens rea* with regard to instigate the deceased to commit suicide. He would further submit that in the absence of any materials, implicating Accused No.4 as accused is not sustainable. Hence, he prays before this Court to quash the proceedings insofar as Accused No.4 is concerned.



WEB COPY

8. In view of the above discussions, this Court finds scope to quash the proceedings in P.R.C.No.52 of 2022 before the learned Principal District and Sessions Court, Tirunelveli, as against Accused No.4 / Petitioner No.4 and this Court cannot quash the proceedings insofar as petitioner Nos.1 to 3 and 5 are concerned.

9. Accordingly, this Criminal Original Petition is partly allowed and the proceedings in P.R.C.No.52 of 2022 before the learned Principal District and Sessions Judge, Tirunelveli stands quashed as against petitioner No.4 only and petitioner Nos.1 to 3 and 5 have to face the trial. Consequently, connected miscellaneous petition is closed.

13.03.2024

Ncc : Yes /No

Index : Yes/No

Internet : Yes/No

TSG

To

1.The Principal District and Sessions Court, Tirunelveli.

2.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P.(MD)No.8188 of 2022

M.DHANDAPANI. J.

TSG

Crl.O.P.(MD)No.8188 of 2022

13.03.2024