



Crl.O.P.(MD) No.13945 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.13945 of 2020

and

Crl.M.P.(MD)Nos.6392 & 6393 of 2020

Joshens Paul Michale

... Petitioner

Vs.

1. State represented through
the Inspector of Police,
C2, Subramaniyapuram Police Station,
Madurai District.
(Crime No.1155 of 2016)

2. Mr.Bennet Christopher

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the final report in P.R.C.No.287 of 2019 on the file of the Judicial Magistrate Additional Mahila Court, Madurai and quash the same as illegal.

For Petitioner : Mr.S.M.A.Jinnah

For R-1 : R.M.Anbunithi
Additional Public Prosecutor



WEB COPY



Crl.O.P.(MD) No.13945 of 2020

ORDER

This Criminal Original Petition is filed by the petitioner seeking to quash the final report in P.R.C.No.287 of 2019 on the file of the Judicial Magistrate Additional Mahila Court, Madurai.

2. The case of the prosecution in a nut shell is as follows:

The second respondent/defacto complainant is the father of the deceased Jenifer Bennet. She was a Clinical Psychologist working for the Cure International India Trust as a Medical Counsellor and she married the present petitioner, Joshens Paul Michale on 27.06.2014. The petitioner used to harass his wife Jenifer Bennet by stating the she does not look like a woman and that he does not have a feeling that she is a woman, on account of which the deceased Jenifer Bennet was depressed and the petitioner took her to her parental home and left her there on 26.07.2016. On 12.11.2016, she committed suicide by hanging in her grandmother's house and her father lodged a complaint with the Sub-Inspector of Police, C2, Subramaniapuram Police Station, Madurai on the same day. Initially, F.I.R in Crime No.1155 of 2016 was registered under Section 174 Cr.P.C and subsequently, after investigation, the same



Crl.O.P.(MD) No.13945 of 2020

was altered to Section 306 I.P.C.

WEB COPY

3. Mr.S.M.A.Jinnah, learned counsel appearing for the petitioner would contend that the deceased committed suicide in her grandmother's house and that the petitioner did not abet the commission of offence. It is his further submission that the petitioner had never harassed his deceased wife as alleged by the prosecution and in fact, the deceased was taking treatment for her mental illness before her death. He also pressed into service the certificate issued by Dr.Avdesb Sharma on 07.03.2015, which reads as under:

"Clinic:

*225/C-7, Samarjung Development Area,
New Delhi-110016
Phone : 2656 4955, 2652 6243
(By Appointment only)*

DR.AVDESH SHARMA

*D.P.M., M.D.(Psychiatry)(NIMHANS)
F.I.P.S., F.I.A.P.P.
Consultant Psychiatrist*

Jennifer:

She was prescribed Tab Encorete Chrome 1 at Night on 28.01.2015 she has been off medication since 09.02.2015 to whom seen today has been symptomatic. She is advised regularly follow up in future."

It is also his contention that the Revenue Divisional Officer report does not speak about any dowry harassment and that there is also no suicidal note left by the deceased. In the circumstances, the final report filed by the police cannot stand for a moment's scrutiny.



Crl.O.P.(MD) No.13945 of 2020

WEB COPY

4. Per contra, the learned counsel appearing for the second respondent/defacto complainant would contend that the deceased had confided with her parents that she was harassed by the petitioner both mentally and physically. He drew the attention of this Court to 161(3) Cr.P.C statement of deceased's father, wherein, he had stated that her daughter was not permitted to have a cell phone and she was kept in a separate room in the house. The petitioner was highly religious on account of which he insisted the deceased to not wear good clothes of her choice and also torn the photo albums as she had taken a photo standing in front of Tajmahal. He, therefore, would contend that the petitioner actually harassed his wife, the deceased Jenifer Bennet. Apart from that, the petitioner had also used to tell her that he does not have a feeling of looking at a woman and he left his wife in her parental home on 26.07.2016 and on 12.11.2016, she committed suicide. According to him, the deceased committed suicide since she was unable to bear the torture meted out to her.

5. The learned Additional Public Prosecutor would contend that the police after conducting proper investigation had laid a final report and



Crl.O.P.(MD) No.13945 of 2020

there is no good ground to quash the same.

WEB COPY

6. A perusal of 161(3) Cr.P.C statements of the father and other family members of the deceased Jenifer Bennet *prima facie* shows the petitioner had harassed his wife. It is pertinent to point out that their marriage took place only in the year 2014 and within two years, she had committed suicide. Moreover, she is an undergraduate in Psychology and was working as a Clinical Psychologist. In fact, she was a counsellor in Cure International India Trust at New Delhi. Merely based on the certificate dated 17.03.2015 issued by the Dr.Andesh Sharma, it cannot be concluded that the deceased Jenifer Bennet was a Psychiatric patient. It is for the trial Court to find out the same by examining the concerned Doctor. In any event, the statements of witnesses *prima faice* go to show that the deceased was subjected to cruelty on account of which she committed suicide. The truth or otherwise of the allegations can be gone into only at the time of trial.

7. The contention of the learned counsel appearing for the petitioner is that even in the F.I.R, the second respondent/defacto complainant had stated that her daughter was in mental depression prior to her marriage



Crl.O.P.(MD) No.13945 of 2020

and the same was cured before her marriage and in such circumstances, the death of the said Jenifer Bennet was on account of mental depression and not because of the alleged cruelty meted out to her by the petitioner. In the F.I.R, though there is a reference that Jenifer Bennet took treatment for depression prior to the marriage, it is also stated that she had come out of the same after proper medication. Subsequently, according to the prosecution, she was tortured at the hands of the petitioner. All these facts, as already observed, can be decided only during the course of trial and it is too premature to come to any conclusion that the petitioner has not committed the offence punishable under Section 306 I.P.C.

8. It is seen from the records that the petitioner on an earlier occasion did not appear before the concerned Court on account of which a Non-Bailable Warrant was issued against him. Subsequently, surety action was also taken by the concerned Court. Now, the petitioner had appeared before the concerned Court and the case has got to be committed to the Court of sessions. In the circumstances, the plea of the learned counsel appearing for the petitioner to dispense with the personal appearance of the petitioner is rejected.



Crl.O.P.(MD) No.13945 of 2020

9. This Criminal Original Petition stands dismissed. Consequently,
connected miscellaneous petitions are closed.

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
jbr

30.01.2024

To

- 1.The Inspector of Police,
C2, Subramaniyapuram Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD) No.13945 of 2020

R.HEMALATHA, J.

jbr

CrI.O.P.(MD) No.13945 of 2020

30.01.2024