



Crl.R.C.(MD)No.803 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.08.2024

Pronounced on : 13.09.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.803 of 2024

and

Crl.M.P.(MD)Nos.8668 and 8670 of 2024

M.Raja

... Petitioner

Vs.

The State represented by,
Inspector of Police,
Samayanallur Police Station,
Madurai District.
(Crime No.1565 of 2020)

... Respondent

Prayer : This Criminal Revision Petition filed under Sections 438 r/w 442 B.N.S.S., to call for the entire records pertaining to the order passed by Principal Assistant Sessions Judge, Madurai in Cr.M.P.No.2384 of 2023 in S.C.No.253 of 2021 dated 26.07.2024 and set aside the same and consequently discharge the petitioner from all charges.

For Petitioner : Mr.V.Kathirvelu, Senior Counsel
for Mr.A.Sivasubramanian

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.2384 of 2023 in S.C.No.253 of 2021 dated 26.07.2024 on the file of the Principal Assistant Sessions Court, Madurai, dismissing the petition filed for discharge under Section 227 of the Code of Criminal Procedure.

2. The petitioner, who is the third accused in S.C.No.253 of 2021, is facing the case for the offences under Sections 294(b), 306, 447 and 506(1) IPC.

3. The case of the prosecution is that the defacto complainant's son Karthick Manjunath was working in Afghanistan under a contractor attached to US army and due to Covid-19, he was unable to visit Afghanistan and at that time, he borrowed loan from IDFC for purchasing electronic articles and he was not able to repay the amount due to Covid-19 issues, that on 27.08.2020 at about 08.30 a.m., the employees of IDFC-accused 1 and 2 came into the house of the defacto complainant and demanded repayment of the loan and at that time, they abused the said



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Karthick Manjunath and thereafter the petitioner/third accused had trespassed into the house of the defacto complainant and continued to abuse the said Karthick Manjunath, that the said Karthick Manjunath unable to bear the harassment and torture consumed fertilizer and when he was immediately taken to Government Rajaji Hospital by the defacto complainant, he was declared as dead and that on the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.1565 of 2020 for the offences under Section 174 Cr.P.C. r/w Sections 294(b), 452 and 306 IPC altered into Sections 294(b), 447, 506(1) and 306 IPC and the respondent police, after completing the investigation, has laid the final report before the jurisdictional Court and after committal, the case was taken on file in S.C.No.253 of 2021 and the same is pending on the file of the Principal Assistant Sessions Court, Madurai.

4. The case of the petitioner is that the charge sheet does not reveal any offence under Sections 294(b), 447, 506(1) and 306 IPC even *prima facie*, that there is no whisper of the essential element of *mens rea* in the charge sheet, that there are no allegations that the petitioner had



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committed any act with an intention and knowledge that such an act should result in the suicide of the deceased, that there are mere unsubstantiated allegations of using abusive words causing mental agony, that there is no allegations of the accused having acted with an intention of driving the deceased to commit suicide, that there is also nothing in the charge sheet to even remotely suggest that the accused had instigated the deceased to commit suicide so that the accused could benefit out of the suicide, that in the absence of continuous physical proximity between the accused and the deceased, the offence of abetment cannot be made out, that the entire case is totally baseless and continuation of the same causes serious miscarriage of justice, irreparable loss and hardship and damages and that it will be abusing the process of law to make the petitioner to undergo ordeal of trial since no offence is made out against the petitioner.

5. The defence of the respondent is that the petitioner is a collection manager in IDFC financial institution, that the deceased was given a loan in the above said institution and the deceased was regularly paying monthly installment, that during covid pandemic, the deceased was unable to pay the installments, that therefore the petitioner along with his



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employees had trespassed into the house of the deceased, threatened him and used filthy language against the deceased as well as his family members, that the financial institution of the petitioner has not been following the RBI guidelines and they are collecting more interest from the public, that the deceased person committed suicide only due to the continuous torture and abusing made by the accused, that the petitioner has already filed a petition to quash the charge sheet against him in Crl.O.P.(MD)No.7747 of 2021 before the Madurai Bench of Madras High Court and the same was dismissed directing the petitioner to face the trial, that the petitioner has also filed a petition to discharge him from the above case in Crl.M.P.No.1340 of 2022 and the same was dismissed on 20.09.2023 for non-prosecution, that the above petition has been filed only to drag on the proceedings and that since the petition is baseless, the same is liable to be dismissed.

6. The learned Assistant Sessions Judge, after conducting enquiry, has passed the impugned order dated 26.07.2024 dismissing the discharge petition. Aggrieved by the order of dismissal, the present revision came to be filed.



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7. It is settled law that dismissal of a quash petition under Section 482 Cr.P.C. is not a bar to file a petition for discharging the accused under Section 227 of the Code of Criminal Procedure. In the case on hand, admittedly, the petitioner has earlier filed a petition in Crl.O.P.(MD)No. 7747 of 2021 under Section 482 Cr.P.C. for quashing the charge sheet filed in P.R.C.No.4 of 2021 on the file of the Judicial Magistrate Court, Vadipatti and this Court, considering the materials available on record, has passed an order dated 01.08.2022 dismissing the petition.

8. As rightly contended by the learned Senior Counsel appearing for the petitioner, there is absolutely no legal bar for filing a petition under Section 227 Cr.P.C. for discharge after dismissal of the quash petition, but the petitioner has raised the same grounds mainly challenging the charge under Section 306 IPC in both the quash petition as well as in the discharge petition. A learned Judge of this Court, upon perusing the charge sheet and other materials filed along with charge sheet and taking note of the grounds raised by the petitioner, has come to a decision that there existed *prima facie* case against the petitioner and there are materials to proceed against the petitioner, dismissed the petition. When this Court has



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given such a finding that there are materials to proceed against the petitioner, in the absence of any other materials placed before the learned Assistant Sessions Judge, the learned Assistant Sessions Judge cannot taken a decision that there are no materials to proceed against the petitioner and hence, the petitioner is entitled to be discharged from the case.

9. As already pointed out, though there is no legal bar, considering the grounds raised in both the quash petition as well as the discharge petition and more particularly, after a finding recorded by this Court that there existed *prima facie* against the petitioner, the petitioner cannot challenge the charge sheet and that too mainly for the offence under Section 306 IPC on the same grounds. The learned Assistant Sessions Judge, without going into that technical aspects, has considered the charge sheet and other materials filed along with charge sheet and by observing that there are materials to proceed against the petitioner and there is absolutely no scope for discharging the petitioner at this point of time, dismissed the petition.



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10. In this case admittedly, the petitioner is a loan recovery manager of IDFC and the accused 1 and 2 are the employees of SSS Agency, a loan recovery agency. It is pertinent to note that the petitioner being the manager of the IDFC has engaged the loan recover agents from SSS Agency and directed them to recover the loan due from the deceased and in pursuance of the said engagement, the accused 1 and 2 had trespassed into the house of the deceased and abused in filthy and derogatory language and threatened the deceased and after completing their work of abusing and threatening, they informed that the recovery manager from IDFC was on the way and at that time, the petitioner had entered into appearance and went inside the house of the deceased and started abusing and threatening him and that the deceased had immediately consumed fertilizer and committed suicide.

11. As rightly contended by the learned Government Advocate (Criminal Side), it is not the case of the prosecution that the occurrence of abusing and threatenings had occurred at one time and consuming of fertilizer was at different time.



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12. The learned Senior Counsel appearing for the petitioner would rely on the decision of the Bombay High Court Nagpur Bench in the case of ***Rohit Vs. The State of Maharashtra and another*** in ***Criminal Application (APL) No.1052 of 2018 dated 17.12.2020***, wherein, the allegations are only to the effect that the applicant demanded outstanding loan amount from the deceased which was the part of his duty being employee of the Finance Company. A learned Judge of Bombay High Court, taking note of the above aspects and by observing that the demand of outstanding loan amount from the person who was in default in payment of loan amount, during the course of employment as a duty, at any stretch of imagination cannot be said to be any intention to aid or to instigate or to abet the deceased to commit the suicide, quashed the FIR registered against the petitioner for the offence under Section 306 IPC. He would also rely on the decision of the Gujarat High Court in ***Jorubhai Amrubhai Varu Vs. State of Gujarat*** reported in ***2020 SCC OnLine Guj 1189***, wherein also the allegations in the FIR is of deceased having borrowed money from the applicant and failed to repay the same with interest and the High Court, by observing that the act of demanding the repayment of money would not bring case within the meaning of Section



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306 of the Indian Penal Code as there would not be any *mens rea* of the applicant as he would not benefited from the act of suicide of the deceased and as such, no *prima facie* case is made out in the FIR, quashed the FIR registered under Section 306 IPC.

13. The learned Senior Counsel would rely on the decision of this Court in the case of ***Loganathan Vs. State represented by The Inspector of Police, Pappanadu Police Station and another*** in ***Crl.O.P.(MD)No. 5069 of 2015 dated 31.10.2018***, wherein, a learned Judge of this Court, by observing that the charge for the offence under Section 306 IPC cannot be sustained merely on the allegation of threat of the deceased and that the ingredients of the offence of abetment are not at all attracted as per the statement of the witnesses, quashed the PRC case as against the petitioner.

14. As rightly contended by the learned Government Advocate (Criminal Side), all the decisions referred above by the learned Senior Counsel appearing for the petitioner is for the offence under Section 306 IPC alone but herein the petitioner is facing some other charges also. Moreover, the above decisions cannot be made applicable to the facts and



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circumstances of the case on hand.

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15. On perusing the charge sheet and other documents produced along with charge sheet, this Court has no hesitation to hold that there existed *prima facie* case and there are materials to proceed against the petitioner and hence, the decision of the trial Court in dismissing the discharge petition cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

16. In the result, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

13.09.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Principal Assistant Sessions Judge,
Madurai.
2. The Inspector of Police,
Samayanallur Police Station,
Madurai District.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
Crl.R.C.(MD)No.803 of 2024
and
Crl.M.P.(MD)Nos.8668 and 8670 of 2024

Dated : 13.09.2024