



Crl.O.P.(MD)No.18899 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.18899 of 2021 &  
Crl.M.P.(MD)No.10502 of 2021

1.K.Rajendran  
2.Valliyammal  
3.Mariyammal

... Petitioners

VS.

1.State through  
Inspector of Police,  
Sattur Taluk Police Station,  
Sattur, Virudhunagar District.  
(Crime No.255/2019)

2.Selvarani

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in S.C.No.31 of 2021 on the file of the Additional Mahila Court, Srivilliputhur, Virudhunagar District and quash the same against the petitioners / accused 2 to 4.



Crl.O.P.(MD)No.18899 of 2021

For Petitioners

:Mr.K.A.Raamakrishnan

For Respondents

:Mr.K.Sanjai Gandhi,  
Government Advocate (Criminal Side)  
for R1

Mr.M.Thirunavukkarasu for R2

### ORDER

Seeking to quash the final report in S.C.No.31 of 2021 on the file of the Additional Mahila Court, Srivilliputhur, Virudhunagar District, the present petition is filed by the accused 2 to 4.

2. The case of the prosecution in a nutshell is as follows.

2.1. The defacto complainant Selvarani lodged a complaint with the Sub Inspector of Police, Sattur Taluk Police Station, Virudhunagar District stating that though her sister Malliga Devi was murdered by her husband, her parents-in-law and other family members by beating her, they falsely informed her and her family members that Malliga Devi committed suicide. This complaint was registered as FIR in Crime No. 255 of 2019 under Section 174(3) of Cr.P.C. on 01.11.2019. After completing investigation, the Deputy Superintendent of Police, Sattur laid



a final report before the Judicial Magistrate No.II, Sattur against the accused 1 to 4 for the offence punishable under Section 306 IPC. The learned Judicial Magistrate after furnishing copies of records under Section 207 Cr.P.C. to the accused, committed the case to the Court of Sessions and the Principal District Judge, Srivilliputhur, Virudhunagar District took the case on file in S.C.No.31 of 2021 and made over the same to the Additional Mahila Court, Srivilliputhur, Virudhunagar District.

3. The present petitioners are arrayed as accused 2 to 4 and they are the parents-in-law and sister-in-law of the deceased Malliga Devi. In the final report, it is stated that the first accused Karuppusamy married Malliga Devi on 26.03.2013 at Odaipatti Vanni Vinayagar Temple against the wishes of their respective parents. They were blessed with two male children by names Kaniram, Kavinraj and one female child by name Swathi. The first accused and Malliga Devi along with their children were residing at Thottylovanpatti Village. The accused 2 to 4 were their neighbours. Since the first accused and Malliga Devi married each other



CrI.O.P.(MD)No.18899 of 2021

without the consent of the accused 2 to 4, they used to pick up quarrel with the deceased Malliga Devi. The first accused on his part used to consume alcohol and at the instigation of his parents and sisters abused the deceased Malliga Devi in filthy language and also physically assaulted her. On 01.11.2019, at about 09.00 am, the first accused came over to his house in an inebriated condition and abused Malliga Devi in filthy language and also asked her to leave the home. On hearing the noise, the accused 2 to 4 came down to the house of the first accused and they also abused Malliga Devi in filthy language and asked her to go out of the house or else commit suicide. When Malliga Devi informed the accused 1 to 4 that she cannot go to her parents' house as she had married against their wishes, they once again asked her to go out of the house or else commit suicide. On account of this, the victim had no other option but to commit suicide.

4. Mr.K.A.Ramakrishnan, learned counsel appearing for the petitioners would contend that the mere averment in the final report 'go and die' would not constitute an offence under Section 306 IPC and that



CrI.O.P.(MD)No.18899 of 2021

the essential ingredients for the offence punishable under Section 107 IPC are also lacking as far as the present case is concerned. He also drew the attention of this Court to the complaint lodged by the defacto complainant, the sister of the deceased and pointed out the contradictions between her complaint and her statement recorded by the Deputy Superintendent of Police under Section 161(3) of Cr.P.C. His contention is that a false case has been foisted against the present petitioners. He therefore prayed for quashing the final report in S.C.No.31 of 2021.

5. Mr.K.Sanjay Gandhi, learned Government Advocate (Criminal Side) appearing for the first respondent and Mr.M.Thirunavukkarasu, learned counsel appearing for the second respondent would contend that the Police after conducting proper investigation had laid a final report and there are no valid grounds to quash the same.

6. The Hon'ble Supreme Court of India in the case of *Kapil vs. 1.The State of Madhya Pradesh Station House Office through*



CrI.O.P.(MD)No.18899 of 2021

*P.S.Sadalpur and another in Misc.Criminal Case No.10385 of 2021*

*dated 04.08.2023, in paragraph no.6, has observed thus.*

*"6. The Supreme Court of India in the case of Arnab Manoranjan Goswami Vs State of Maharashtra and Others: 2020 SCC OnLine SC 964 has summarised the law in respect of the scope of sections 107 & 306 of the I.P.C., the relevant paragraphs are as under:-*

*"57. Dealing with the provisions of Section 306 of the IPC and the meaning of abetment within the meaning of Section 107, the Court observed:*

*"12. In order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note."*



58. *The Court noted that the suicide note expressed a state of anguish of the deceased and “cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide”. Reversing the judgment of the High Court, the petition under Section 482 was allowed and the FIR was quashed.*

59. *In a concurring judgment delivered by one of us (Dhananjaya Y. Chandrachud J) in the decision of the Constitution Bench in Common Cause (supra), the provisions of Section 107 were explained with the following observations:*

*“458. For abetting an offence, the person abetting must have intentionally aided the commission of the crime. Abetment requires an instigation to commit or intentionally aiding the commission of a crime. It presupposes a course of conduct or action which (in the context of the present discussion) facilitates another to end life. Hence abetment of suicide is an offence expressly punishable under Sections 305 and 306 IPC.”*

60. *More recently in M Arjunan v. State (represented by its Inspector of Police), a two judge Bench of this Court, speaking through Justice R. Banumathi,*



*elucidated the essential ingredients of the offence under Section 306 of the IPC in the following observations:*

*“7. The essential ingredients of the offence under Section 306 IPC are : (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC.”*

*61. Similarly, in another recent judgment of this Court in Ude Singh v. State of Haryana, a two judge Bench of this Court, speaking through Justice Dinesh Maheshwari, expounded on the ingredients of Section 306 of the IPC, and the factors to be considered in determining whether a case falls within the ken of the aforesaid provision, in the following terms:*

*“38. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of*



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CrI.O.P.(MD)No.18899 of 2021

*incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.*

*39. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward,*



*provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was*



*provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.”*

*62. Similarly, in Rajesh v. State of Haryana a two judge Bench of this Court, speaking through Justice L. Nageswara Rao, held as follows:*

*“9. Conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide. In order to bring a case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”*



63. *In a recent decision of this Court in Gurcharan Singh v. State of Punjab, a three judge Bench of this Court, speaking through Justice Hrishikesh Roy, held thus:*

*“15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Sec 107 of the IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased.”*

64. *In Vaijnath Kondiba Khandke v. State of Maharashtra, a two judge Bench of this Court, speaking through Justice U.U. Lalit, dealt with an appeal against the rejection of an application under Section 482 of the CrPC, for quashing an FIR registered under Sections 306 and 506 read with Section 34 of the IPC. A person serving in the office of the Deputy Director of Education Aurangabad had committed suicide on 8 August 2017. His wife made a complaint to the police that her husband was suffering from mental torture as his superiors were*



*getting heavy work done from her husband. This resulted in him having to work from 10 AM to 10 PM and even at odd hours and on holidays. The specific allegation against the appellant was that he had stopped the deceased's salary for one month and was threatening the deceased that his increment would be stopped. This Court noted that there was no suicide note, and the only material on record was in the form of assertions made by the deceased's wife in her report to the police. The Court went on to hold that the facts on record were inadequate and insufficient to bring home the charge of abetment of suicide under Section 306 of the IPC. The mere factum of work being assigned by the appellant to the deceased, or the stoppage of salary for a month, was not enough to prove criminal intent or guilty mind. Consequently, proceedings against the appellant were quashed.*

*65. On the other hand, we must also notice the decision in Praveen Pradhan (supra) where a two judge Bench of this Court, speaking through Justice B.S. Chauhan, dismissed an appeal against the rejection of an application under Section 482 of the CrPC by the High Court for quashing a criminal*



*proceeding, implicating an offence under Section 306 of the IPC. The suicide note which was left behind by the deceased showed, as this Court observed, that “the appellant perpetually humiliated, exploited and demoralised the deceased, who was compelled to indulge in wrongful practices at the workplace, which hurt his self-respect tremendously.” The Court noted that the appellant always scolded the deceased and tried to always force the deceased to resign. Resultantly, the Court observed:*

*“19. Thus, the case is required to be considered in the light of the aforesaid settled legal propositions. In the instant case, alleged harassment had not been a casual feature, rather remained a matter of persistent harassment. It is not a case of a driver; or a man having an illicit relationship with a married woman, knowing that she also had another paramour; and therefore, cannot be compared to the situation of the deceased in the instant case, who was a qualified graduate engineer and still suffered persistent harassment and humiliation and additionally, also had to endure continuous illegal demands made by the appellant, upon nonfulfillment of which, he would be mercilessly harassed by the appellant for a*



*prolonged period of time. He had also been forced to work continuously for long durations in the factory, vis-à-vis other employees which often even entered to 16-17 hours at a stretch. Such harassment, coupled with the utterance of words to the effect, that, “had there been any other person in his place, he would have certainly committed suicide” is what makes the present case distinct from the aforementioned cases. Considering the facts and circumstances of the present case, we do not think it is a case which requires any interference by this Court as regards the impugned judgment and order [Criminal Miscellaneous Application No. 420 of 2006, decided on 5-1-2012 (Utt)] of the High Court. The appeal is, therefore, dismissed accordingly.”*

In the instant case, the first accused and the deceased Malliga Devi had married against the wishes of their respective parents. The accused 2 to 4 are residing adjacent to the house of the first accused and the deceased Malliga Devi. Though the first accused and the deceased Malliga Devi were blessed with three children, the statements of the witnesses *prima facie* show that the victim was cornered to commit suicide. It is not the



CrI.O.P.(MD)No.18899 of 2021

case of the accused that the deceased Malliga Devi was depressed or mentally ill. The statements of the witnesses also show that the deceased Malliga Devi had confided in her sister and brother that she is facing problems with her in-laws and husband. She had specifically informed them that all the accused 1 to 4 had directed her to leave the house or else to commit suicide. She was unable to leave the matrimonial home as she did not have any support from her parents. She was also unable to bear the torture meted out to her at the hands of the accused 1 to 4. Such harassment coupled with the utterance of words to 'go and die' had made the deceased Malliga Devi to commit suicide. Though the victim was blessed with three children, she had taken a drastic decision of ending her life. In any event, the truth or otherwise of the allegations made in the final report can be decided only during the course of trial and at this stage, I do not see any reason to quash the final report against the present petitioners.



Crl.O.P.(MD)No.18899 of 2021

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7. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, the connected Miscellaneous Petition is closed.

13.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

1.The Additional Mahila Court,  
Srivilliputhur, Virudhunagar District

2.The Inspector of Police,  
Sattur Taluk Police Station,  
Sattur, Virudhunagar District.

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



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CrI.O.P.(MD)No.18899 of 2021

R.HEMALATHA, J.

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CrI.O.P.(MD)No.18899 of 2021

13.03.2024