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Crl.O.P.Nos.2735 of 2021, 3311 & 32621 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.2735 of 2021, 3311 & 32621 of 2022 and
Crl.MP.Nos.1518, 1520 of 2021 & 1523, 1524, 7489 of 2022

CRL.O.P.No. 2735 of 2021

1.Manisekaran
2.Sathishkumar
3.Kanagaraj
4.GoundamanI
5.Senthilkumar

...Petitioners

Vs.

1.The State,
Rep.By The Inspector Of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
Crime No.343 Of 2019

2.Mohanasundaram
3.P.Anantha Jothi

(R3 is impleaded as per order in CRL MP.No.7254/2021 in CRL.
OP.No.2735/2021 dated 03/08/2021)

...Respondents

PRAYER in CRL.O.P.No. 2735 of 2021

Criminal Original Petition filed under Section 482 of Cr.P.C..
praying to call for the records cluminating in the impugned S.C.No.5 of
2011 pending on the file of the learned Additional District Judge,
Krishnagiri.



Crl.O.P.Nos.2735 of 2021, 3311 & 32621 of 2022

CRL OP No.3311 of 2022

Sathish

...Petitioner

Vs

1.State Rep by the Inspector Of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
(Cr.No.343 of 2019)
2.Mohanasundaram

..Respondents

PRAYER in CRL OP No. 3311 of 2022

Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for the records relating to the complaint in S.C.No.5 of
2021 on the file of the Additional District and Sessions Judge, Krishnagiri
and quash the same as far as the petitioner is concerned.

CRL OP No.32621 of 2022

P.Anantha Jothi

...Petitioner

Vs

The State Rep. By
The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District
Crime No.343 of 2019

...Respondent

PRAYER in CRL OP No. 32621 of 2022

Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to direct the respondent to reinvestigate the case in SC.No.5 of
2021 on the file of the Learned Additional District Judge, Krishnagiri.



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Crl.OP.No.2735 of 2021

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For Petitioners : Mr.A.Arun Anbumani

For Respondents

For R1 : Mr.L.Baskaran,
Government Advocate(crl.side)

For R2 : No appearance

For R3 : Mr.C.Murugendran

Crl.OP.No.3311 of 2022

For Petitioner : Mr.V.Sakkarapani

For Respondents

For R1 : Mr.L.Baskaran,
Government Advocate(crl.side)

Crl.OP.No.32621 of 2022

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.L.Baskaran,
Government Advocate(crl.side)

COMMON ORDER

The criminal original petitions Crl.OP.Nos.2735 of 2021 & 3311 of 2022 have been filed praying to quash the proceedings in SC.No.5 of 2021 on the file of the Learned Additional District Judge, Krishnagiri.



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2. The case of the prosecution in Crl.OP.Nos.2735 of 2021 & 3311 of 2022 is that on 13.06.2019 at about 18 hrs, when the Inspector of Police was on duty, the defacto complainant lodged complaint stating that he found one male body over railway line between Morappur to Thottampatty. On receipt of the said information, FIR was registered under Section 174 of Cr.P.C. During the investigation, the first and second accused were arrested. On their confession statement, the other accused persons were implicated as accused on the allegation that the first accused went to Tirunallar along with the deceased and at that time, the first accused had also taken one, Buvaneswari along with him since he had illegal affair with her. He also insisted the deceased not to tell to anyone about the said relationship. After three months, the first accused's wife had fought with the first accused with regards to the trip to Tirunallar and questioned him as to why he went along with the deceased and the said Buvaneswari. Therefore, the first accused came to understand that the deceased had informed about the same to the first accused's wife. The first accused also installed voice recorder in his wife's mobile phone and on verification, he came to know that the deceased was the one who had informed to his wife about the illegal relationship with the said Buvaneshwari. Therefore, the first accused, in

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order to take revenge over the deceased, continued his relationship with him. However, the deceased came to know that the first accused understood that the deceased was the one who informed the first accused's wife about the illegal intimacy of the first accused with the said Buvaaneswari and as such, he stopped his friendship with the first accused. Therefore, the first accused, through his friend one Sathishkumar, called the deceased regarding installation of solar panel and asked the deceased to come to Krishnagiri on 10.03.2019 at about 12 p.m. Thereafter, he was taken to a place behind a housing board and was illegally detained there for six hours and they had assaulted him by scolding him with filthy languages. Thereafter, they had asked him to go and die somewhere and later two of his friends dropped him at a bus stop and left the place. Thereafter, the deceased committed suicide by jumping before a running train. The deceased sustained grievous injuries and died. After completion of investigation, final report was filed for the offence punishable under Sections 120B, 306 & 364 of IPC and the same was taken cognizance by the trial court.

3. The learned counsels for the petitioners in Crl.OP.Nos.2735 of 2021 & 3311 of 2022 submit that the accused persons have been implicated as accused only on the confession statement of the first

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accused. Except the confession statement of the first accused, no other incriminating material is available to connect the other accused persons to the present case. The alleged confession statement also did not lead to any recovery from the other accused and as such the entire case of the prosecution is vitiated and the same is liable to be quashed. Even assuming that the accused persons kidnapped the deceased and detained him illegally for more than six hours and assaulted him, the deceased was dropped down at a bus stop. These contentions are artificial in nature and there is absolutely no link to connect the accused with the suicide committed by the deceased. There is absolutely no prima facie material available to prosecute the petitioners herein. The ingredients of the offences under Section 120(b) of IPC cannot be said to be made out even from the final report filed by the first respondent and the other materials produced along with the final report. There is absolutely no piece of evidence to attract the offence under Sections 364 and 306 of IPC. Both offences are distinct and they cannot go together. The ingredients and genus of these offences are entirely different. In support of their contention, the learned counsels for the petitioners relied upon several judgments of the Hon'ble Supreme Court of India as well as this Court .



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4. The learned counsel for the petitioner in Crl.OP.No.32621 of 2022, which has been filed for direction to the respondent to reinvestigate the case in SC.No.5 of 2021, submits that it is a case of murder. The respondent failed to trace out the call detail records of the accused to prove the conspiracy between them. Further, the post mortem report states that the entire body of the deceased was found to be injured. Therefore, all the accused persons had brutally attacked the deceased and had thrown the body of the deceased before a running train as if the deceased committed suicide. Therefore, the respondent completely failed to investigate the case in a proper manner.

5 Considering the above submission, this Court by way of interim direction directed the respondent to reinvestigate the matter in crime No.343 of 2019 and to submit report before the trial court. On receipt of the communication from the trial court dated 07.04.2025, it is revealed that the first respondent conducted reinvestigation and submitted a report before the trial court. However, there is no change in the final report which was already filed by the respondent and the same was taken cognizance by the trial court. Therefore, the prayer sought for in Crl.OP.No.32621 of 2022 has already been granted. Accordingly, the criminal original petition in Crl.OP.No.32621 of 2022 is liable to be



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closed.

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6. The learned counsel appearing for the petitioner in Crl.OP.No.32621 of 2022 further submits that all the grounds raised by the petitioners in Crl.OP.Nos.2735 of 2021 & 3311 of 2022, can be considered only before the trial court by letting in evidence. Though the prosecution implicated the accused on the basis of the confession statement recorded from the first accused, it is matter for trial by letting in evidence to consider whether any other incriminating material is available or not against the first accused on the strength of the confession statement. It is premature to go into the materials available on record to consider whether it is sufficient to convict the accused or not. There are incriminating materials against the accused to attract the offences under Sections 120(b), 364 & 306 of IPC. Therefore, he prayed for dismissal of the quash petitions.

7. Heard, the learned counsel appearing on either side and perused, all the materials placed before this Court.



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8. There are totally eight accused, in which the petitioners in Crl.OP.No.2735 of 2021 are arrayed as A1 to A5 and the petitioner in Crl.OP.No.3311 of 2022 is arrayed as A7. Some of the accused died. The crux of the case is that the first accused had a trip to Tirunallar along with the deceased. He had also taken one Buvaneshwari to Tirunallar since already he had illegal intimacy with her. It was noticed by the deceased and informed to the wife of the first accused. It came to the knowledge of the first accused and as such he planned to do away the life of the deceased. Since he had no contact with the deceased, through his friend, one, Sathishkumar, he called the deceased for installation of solar panel at Krishnagiri. All the accused were present where they illegally detained the deceased for six hours and had beaten him indiscriminately. Thereafter, he was let out and the accused persons scolded him in filthy language and had asked him to go and die by jumping before a running train or by hanging himself, failing which they will murder him, as a result of which between 6 p.m., on 10.03.2019 and 6 a.m. on 11.03.2019, the deceased committed suicide by jumping before a train plying from Mettupalayam to Chennai in a railway track near Morappur railway station. He died due to multiple injuries sustained by him.



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9. The motive behind the crime itself is artificial in nature.

Even according to the case of the prosecution, the first accused alone had acquaintance with the deceased. In fact, in order to prove the said acquaintance, the prosecution did not produce any incriminating material. The prosecution also failed to produce any evidence to show that the deceased along with the accused went to Tirunallar. In fact, the prosecution did not even enquire the so called paramour of A1 one, Buvaneshwari who allegedly went along with them to Tirunallar since the first accused had illegal intimacy with the said Buvaneshwari. The prosecution also failed to mention the date on which they went to Tirunallar when there is bereft of particulars that when the deceased informed to the first accused's wife about the first accused's illegal intimacy with the said Buvaneshwari. The entire story has been created by the prosecution only on the basis of the confession statement of the first accused. As per the confession statement, the deceased was engaged in the work of installation of solar panels and he was called to Krishnagiri by the second accused, who is a friend of the first accused since the first accused stopped his friendship with the deceased for the reason he came to knowledge that the deceased was the one who informed about his illegal intimacy with the said Buvaneshwari to his wife. By the second accused, he was dragged to Krishnagiri, where he was illegally detained

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in a place and he was beaten by the accused and at about 6 p.m., he was let out by the accused. If at all the deceased was kidnapped by the accused in order to do away his life, they would not have set the deceased free.

10. According to the case of the prosecution, the deceased was dropped down by A6, that too after having food together. Thereafter the deceased travelled in a bus to the place of occurrence. While travelling in the bus, he got down at the place of occurrence and jumped before a running train. Therefore, the entire theory of the prosecution is only based on the confession statement and there is absolutely no other material to corroborate the confession statement of the first accused. Further, there is no evidence to show that the first accused and others are friends. Except the confession statement of the first accused, no other materials are available to implicate the other accused along with the first accused. Even assuming that the first accused had motive to do away the life of the deceased, there was no motive insofar as the other accused persons are concerned. They had absolutely no motive to join with the first accused to do away the life of the deceased. Though the offence under Section 120(b) of IPC cannot be proved by direct evidence, there is absolutely no circumstances to attract the offence under Section 120(b) of IPC as

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against the accused persons. No one has spoken about their conspiracy and in fact, the prosecution failed to produce any piece of evidence to show that all the accused persons are friends and they joined together to do away the life of the deceased. It is settled proportion of law that the confession of a co-accused cannot be taken as a substantiate proof of evidence against the other accused and at the best it can be used only to lend assurance to the existing circumstantial evidence. Admittedly, except the confession statement of the first accused, no other material is available to implicate the other accused persons. In criminal cases where the other evidence adduced against an accused person is wholly unsatisfactory and the prosecution seeks to rely on the confession of a co-accused person, the presumption of innocence which is the basis of criminal jurisprudence assists the accused person and compels the Court to render the verdict that the charge is not proved against him, and so, he is entitled to the benefit of doubt. Therefore, the implication of an accused solely on the basis of the confession statement of a co-accused cannot be treated as substantive evidence and in the absence of any other incriminating material, it would not be appropriate to proceed as against the accused purely on the confession statement of a co-accused.



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11. It is relevant to rely upon the landmark judgment of

Constitution Bench of the Hon'ble Supreme Court of India in the case of *Haricharan Kurmi Vs. State of Bihar* reported in *AIR 1964 SC 1184*,

wherein it is held as follows:

“As a result of the provisions contained in s. 30, the confession has no doubt to be regarded as amounting to evidence in a general way, because whatever is considered by the court is evidence; circumstances which are considered by the court as well as probabilities do amount to evidence in that generic sense. Thus, though confession may be regarded as evidence in that generic sense because of the provisions of s. 30, the fact remains that it is not evidence as defined by s. 3 of the Act. The result, therefore, is that in dealing with a case against an accused person, the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said other evidence.

Thus, the confession of a co-accused person cannot be treated as substantive evidence and can be pressed into service only when the court is inclined to'



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accept other evidence and feels the necessity of seeking for an assurance in support of its conclusion deducible, from the said evidence. In criminal trials, there is no scope for applying the principle of moral conviction or grave suspicion. In criminal cases where the other evidence adduced against an accused person is wholly unsatisfactory and the prosecution seeks to rely on the confession of a co-accused person, the presumption of innocence which is the basis of criminal jurisprudence assists the accused person and compels the Court to render the verdict that the charge is not proved against him, and so, he is entitled to the benefit of doubt.”

12. On perusal of the entire records, it is self explanatory that the confession statement is inadmissible as an evidence. Once it is left out of consideration, as it should be, the confessional statements of the other accused, for what they are worth, cannot be made, in the absence of any other material to connect the accused persons with the accusation levelled against them. As stated supra, even as against the first accused, there is absolutely no material to connect him for abetment to commit suicide and for kidnapping the deceased. There is no ingredients to attract the offence under Section 364 of IPC. In order to establish the said offence, there must be some material to prove that the accused had the intention at the



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time of kidnap or abduction, that the person kidnapped or abducted may be murdered or may be so disposed of as to be put in danger of being murdered. There is absolutely no material to establish these aspects. There is no kidnapping or abduction of the deceased and that he left the place to go to his brother's house. Therefore the offence under Section 364 of IPC cannot be said to be made out as against the accused. According to the case of the prosecution, the first accused said to have handed over a sum of Rs.500/- as bus fare to travel to Bangalore. Sixth accused is said to have taken the deceased to Hotel Saravana Bhavan in Royakottai where the deceased had eaten a meal. Thereafter he was dropped at a bus stand where from the deceased boarded a bus to Hosur. The deceased informed A6 about his travel to Hosur and thereafter another bus to Bangalore. However, after getting down at Hosur, the deceased is said to have taken a bus bound to Harur and got down midway at Morappur. The CCTV footage shows the above fact. Therefore, the deceased himself travelled to Harur in a bus. However, he got down at Morappur and committed suicide. Therefore, the abetment to commit suicide is not at all attracted against the accused.

13. It is settled law that the abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing.



Without a positive act on the part of the accused to instigate or aid the deceased in committing suicide, charge under Section 306 of IPC cannot be sustained and the same is liable to be quashed. Further there must be *mens rea* on the part of the accused to commit the offence and it also requires an active act which allowed the deceased to commit suicide seeing no other option and that act must have been intended to push the deceased into such a position that the deceased had to commit suicide. These aspects are completely missing in this case to attract the offence under Section 306 of IPC.

14. At this juncture, it is relevant to extract the following from the Judgment of the Hon'ble Supreme Court of India, reported in **2024 SCC OnLine SC 137** in the case of ***Prabhu Vs State represented by the Inspector of Police and another:***

“14. 107. Abetment of a thing. - A person abets the doing of a thing, who – First.- Instigates any person to do that thing;

or Secondly.- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing;

or Thirdly.- Intentionally aids, by any act or



illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.-Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

15. In a recent judgment of this Court in Kamalakar vs. State of Karnataka in Criminal Appeal No. 1485 of 2011 [decided on 12.10.2023], one of us (Vikram Nath J.) explained the ingredients of Section 306 IPC. The Court has held as follows:

“8.2. Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused-s actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person-s suicide.

8.3. In Ramesh Kumar v. State of Chhattisgarh¹, this Court has analysed different meanings of



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'instigation'. The relevant para of the said judgment is reproduced herein:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

8.4. The essentials of Section 306 IPC were elucidated by this Court in M. Mohan v. State², as under:

"43. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word 'instigation' and 'goadings'. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect.



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Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.”

8.5. The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in Amalendu Pal alias Jhantu v. State of West Bengal³ in the following paragraphs:

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in



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cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely 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, conviction in terms of Section 306 IPC is not sustainable.

13. 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.”

8.6. On a careful reading of the factual matrix of the instant case and the law regarding Section 306 IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not committed any positive or direct act to instigate or aid in the commission of suicide by the deceased.”

15. Thus, it is clear that where the words uttered are casual in nature and which are often employed in the heat of the moment between



quarrelling people, and nothing serious is expected to follow from the same, the same would not amount to abetment of suicide. Further, in the case of suicide and in the commission of said act 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 such suicide. Therefore, offence under Section 306 of IPC is clearly not made out against the accused.

16. In view of the above discussion, this Court is inclined to quash the impugned proceedings in S.C.No.5 of 2021 in respect of the present accused persons. Accordingly, the entire proceedings in S.C.No.5 of 2021 on the file of the Additional District and Sessions Judge, Krishnagiri is quashed in respect of the petitioners in Crl.OP.Nos.2735 of 2021 & 3311 of 2022.

17. In the result, the criminal original petitions in Crl.OP.Nos.2735 of 2021 & 3311 of 2022 stand allowed and the criminal original petition in Crl.OP.No.32621 of 2022 stands dismissed. Consequently, connected miscellaneous petitions are closed.

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The learned Additional District Judge, Krishnagiri.
- 2.The State,
Rep.By The Inspector Of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
- 3.The Public Prosecutor,
High Court of Madras

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