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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on:21.11.2025

Pronounced on:06.02.2026

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

(Criminal Original Jurisdiction)

Crl.O.P.(MD).Nos. 17426 and 20072 OF 2023

and

CRL M.P.(MD)Nos.13836 and 15727 of 2023

Crl.O.P.(MD).No.17426 OF 2023:

1.Krishnamoorthi

2.Muthulakshmi

...Petitioners

Vs

1.State represented by,
The Inspector of Police,
Theni Police Station,
Theni.

2.P.S. Rani @ Pushpam

...Respondents

For Petitioner(s): Mr.Shangar Murali

For 1st Respondent: Mr.A.S.Abul Kalam Azad

Government Advocate (Crl. Side)

For 2nd Respondent: Mr.N. Vallinayagam

Prayer: Criminal Original Petition, filed under Section 482 of Criminal Procedural Code, to call for the records pertaining to the FIR in Crime No.211



of 2023 on the file of the 1st respondent dated 06.05.2023 and to quash the same as illegal.

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CrI.O.P.(MD).No. 20072 OF 2023:

Krishnamoorthi

...Petitioner

Vs

1.The Superintendent of Police,
Theni District, Theni.

2.The Inspector of Police,
Theni Police Station, Theni.

3.The Inspector of Police,
CBCID, Theni.

...Respondents

For Petitioner(s): Mr.K.Balasundharam, Senior Counsel

For M/s.KBS Law Office

For Respondent(s): Mr.A.S.Abul Kalam Azad

Government Advocate (CrI. Side)

Prayer: Criminal Original Petition, filed under Section 482 of Criminal Procedural Code, praying to direct the 1st respondent to withdraw the Crime No. 211 of 2023 under section 174 of Cr.P.C. @ 306 IPC from the file of the 2nd respondent and to transfer the same to the 3rd respondent CBCID police for investigation.

COMMON ORDER

The above stated two petitions are pertaining to Crime No. 211 of 2023 on the file of the Inspector of Police, Theni Police Station, hence, both the petitions are taking together and a common order is passed.



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2. The CrI.O.P.(MD).No.17426/2023 is filed to quash the FIR filed in Crime No.211 of 2023 and the CrI.O.P.(MD).No. 20072/2023 is filed to transfer the case to the 3rd respondent therein (investigating agency).

BRIEF FACTS OF THE CASE:

3.(i) The brief facts of the case are that the 1st petitioner Krishnamoorthi had married one Shanthi, out of the wedlock a son namely Rajarajan was born. The said Shanthi on 23.06.1996, leaving behind her minor son Rajarajan. The 1st petitioner for the welfare of his minor son settled, released and sold his properties in favour of his minor son Rajarajan. As per family understanding the minor child Rajarajan was permitted to live with his maternal grandfather Subbaiyan. The 1st petitioner subsequently married the 2nd petitioner and out of their lawful wedlock, a daughter was born. The 1st petitioner is a retired Siddha Doctor and the 2nd petitioner is a practising lady Advocate at Theni District.

3(ii). The maternal grandfather Subbaiyan, married one Logarani and out of the wedlock two sons namely Sekar and Chandran and one daughter namely Shanthi were born. After the demise of first wife Logarani, the said Subbaiyan had married Rani @ Pushpam, the defacto complainant herein. Out of the said wedlock, two daughters namely Kavitha and Banu were born. The said



Rajarajan had been living with his maternal grandfather and step-grandmother since one year and four months of age. He was M.E. graduate.

3(iii) The victim had executed a will dated 30.04.2023 bequeathing all his properties in favour of the defacto complainant, the Will is treated as suicide note which runs into 6 pages, wherein the victim had affixed thumb impression and signed in every pages. The victim before his death had sent WhatsApp message to his friends. In the said suicide note it is stated that his father had filed a GWOP No.24 of 1999 on the file of District Court, Madurai for his custody and the same was dismissed, preferred appeal and the same was disposed since the victim had attained majority. During school time the father had met the victim, the victim had enquired about his mother and the father had stated he tortured his mother and murdered her and able to murder victim's maternal grandparents. A suit in O.S.No.49 of 2014 on the file of District Court, Theni has been filed by the victim for partition of mother/Shanthi properties and the father was 10th defendant in the suit.

3(iv). The said Rajarajan allegedly committed suicide under mysterious circumstances. Based on the complaint given by the said Rani @ Pushpam, the defacto complainant FIR No.211/2023 was initially registered under Section 174 CrPC and subsequently based on alteration report the sections were altered to Sections 306 IPC. Thereafter the charge sheet was filed in PRC No. 56 of



2025 under sections 306, 34 and 420. However the sections 306 and 34 were invoked as far as the petitioners herein are concerned.

CASE OF THE PROSECUTION

4. The 1st petitioner is the father of the victim Rajarajan. The victim had executed a will dated 30.04.2023 bequeathing all his properties in favour of the defacto complainant. The said Will is treated as suicide note by the prosecution. The said suicide note runs into 6 pages wherein the victim had affixed thumb impression and signed in every pages. The FIR alleges that the 1st and 2nd accused tortured him. The victim had stated that the 1st petitioner father has not given the properties and had forced him to file suits, even after judgment passed in suits, the 1st petitioner had not given the properties to the victim. Further alleged he was under stress since the 1st petitioner along with the 2nd petitioner (second wife of the father) tortured the victim. The 3rd accused is victim's friend who received Rs.7 lakhs but had returned Rs.3,35,000/- but failed to return the balance amount and also whenever called him in mobile, he failed to answer the call. Since the accused had tortured the victim and cheated the victim, which allegedly compelled him to commit suicide. Hence the FIR and alteration report.



5. Heard Mr.Shangar Murali, the Learned Counsel appearing for the petitioners in Crl.O.P.(MD)No.17426 of 2023, Mr.K.Balasundharam, for M/s.KBS Law Office, the Learned Senior Counsel appearing the petitioner in Crl.O.P.(MD) No.20072 of 2023, Mr.A.S.Abul Kalam Azad, the Learned Government Advocate (Crl. Side) appearing for the 1st respondent in Crl.O.P. (MD)No.17426 of 2023 and for all respondents in Crl.O.P.(MD)No.20072 of 2023 and Mr. N. Vallinayagam, the Learned Counsel appearing for the 2nd respondent in Crl.O.P.(MD)No.17426 of 2023 and perused the records.

DISCUSSION:

6. The primary contention of the petitioners is that the incidents narrated in the suicide note are not sufficient to charge the petitioners as abettors to abet the victim to commit suicide. But according to prosecution the petitioners had tortured the victim, hence he committed suicide. It is seen initially the FIR was registered under section 174 then alteration report was filed invoking section 306. After investigation the final report was filed invoking sections 306, 34 and 420. Against the accused 1 and 2 / petitioners herein only sections 306 and 34 were invoked and not section 420. Against the accused 3 section 420 was invoked. The sections 34 and 306 and section 107 are extracted hereunder:

"Section 34. Acts done by several persons in furtherance of common intention.—When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.



Section 306. *Abetment of suicide. —If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

Section 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.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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."



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It is seen from records prior to filing of guardianship petition, the 1st petitioner had filed HCP No.1746 of 1999 which was dismissed with liberty to approach the competent court for custody of the child (the deceased was minor at that point of time). The charge sheet has been filed wherein it is stated that the 1st petitioner had filed GWOP No.24 of 1999 on the file of Principle District Court, Madurai seeking custody of the victim. Subsequently it was transferred and renumbered as GWOP. No. 4 of 2006 on the file Principal District Court, Theni. The case was dismissed against the 1st petitioner, who had preferred appeal and the same was disposed of since by the time the deceased had attained majority. Hence the deceased was living at maternal grandparents house right from the death of his mother Shanthi. According to the charge sheet and according to the suicide note the said filing of the appeal by the 1st petitioner against the deceased is torture. Further the charge sheet quoting the suicide note states that the 1st petitioner had met the victim while the victim was studying 7th standard and had stated the victim that his mother Shanthi was killed by the 1st petitioner by torturing and the 1st petitioner has threatened if the victim is not coming with him he would kill him as well as and his grandparents by torturing and he is capable of doing as the petitioner had killed victim mother. The 1st petitioner along with the deceased Shanthi had purchased 10 cents land, from the same the 1st petitioner had executed settlement deed in favour of the victim for 5 cents vide Doc No.835 / 1997 on



03.03.1997. But the same was cancelled vide Doc.No.2344 of 2012 dated 30.01.2012. Hence the victim had filed a suit in O.S.No.23 of 2014 on the file of District Munsif Court, Uthamapalayam and the same was allowed by setting aside the cancellation of settlement deed. The 1st petitioner was annoyed by the same and had made the 1st petitioner and the victim to execute a unregistered release deed wherein it was agreed that the 1st petitioner would not claim any right over the property the victim is in possession, any property acquired by victim in future and there is no relationship between them. Likewise the victim should not claim any property from the 1st petitioner and his second wife who is in possession of the property and also any property acquired or gold purchased in future. The said document had severed the relationship between the petitioner and the victim, which has added to the stress on the victim. Further when the victim had sold the 5 cents of land for his education to the 1st petitioner's brother, the 1st petitioner had asked why it was sold to the 1st petitioner's brother, it can be sold to 1st petitioner itself, which was disliked by the victim. Further the victim friend had cheating by not paying the loan amount. According to the suicide note and the charge sheet the 1st petitioner had tortured the victim for the property and the 2nd petitioner being an advocate had instigated to file litigation for the said property dispute, hence the victim felt he was tortured and he committed suicide.



7. Now the question is whether the above narration of events and facts would constitute instigation or aiding the victim to commit suicide. The Hon'ble Supreme Court in the case of Prabhat Kumar Mishra @ Prabhat Mishra v. State of UP and another reported in 2024 (3) SCR 157 had held that as follows:

“22. It is not in dispute that the prosecution case is entirely based on the suicide note left behind by the deceased before committing suicide. On a minute perusal of the suicide note we do not find that the contents thereof indicate any acct or omission on the part of the accused appellant which would make him responsible for abetment as defined under section 107 of IPC.

23. We have minutely perused the suicide note (reproduced supra) which clearly shows that the deceased was frustrated on account of work pressure and was apprehensive of various random factors unconnected to his official duties. He was also feeling the pressure of working in two different districts. However such apprehensions expressed in the suicide note, by no stretch of imagination can be considered sufficient to attribute to the appellant, an act or omission constituting the elements of abetment to commit suicide. The facts of the case at hand are almost identical to the case of Netai Dutta (supra). Thus, we have no hesitation in holding that the necessary ingredients of the offence of abetment to commit suicide are not made out from the chargesheet and hence allowing prosecution of the appellant is grossly illegal for the offences punishable under section 306 IPC and section 3(2)(v) of the SC/ST Act tantamount to gross abuse of process of law.”



8. In *M.Mohan v. State* represented by the Deputy Superintendent of Police reported in (2011) 3 SCC 626 had held

“37. The word “suicide” in itself is nowhere defined in the penal code. However its meaning and import is well known and requires no explanation. Sui means self and cide means killing, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself irrespective of the means employed by him in achieving his object of killing himself.

38. In our country, while suicide itself is not an offence considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under section 309 IPC.”

9. In *Ramesh Kumar v. State of Chhattisgarh* reported in (2001) 9 SCC 618, the three Judge Bench has examined different shades of the meaning of “instigation” and the same is extracted hereunder:

“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. In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant / accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn."

10. In *State of W.B. v. Orilal Jaiswal* [(1994) 1 SCC 73], this Court has cautioned in para 17 that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

11. In *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605] had dealt with the aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". 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. 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. 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. 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 to commit suicide.

12. In Madan Mohan Singh v. State of Gujarat reported in 2010 8 SCC 628 the Court had quashed the conviction under section 306 IPC on the ground that the allegations were irrelevant and baseless and observed that the High Court was in error in not quashing the proceedings.



13. The ingredients of the sections 306 and the aforesaid judgments would indicate that 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. This Court is of the considered opinion that the above narration of events as stated in the suicide note and the charge sheet would clearly indicate that there is no such aiding or instigation by the accused / petitioners herein to the victim to commit suicide. There were several allegations against the petitioners, but there is no proximate link between the act of suicide and the allegations. The deceased was undoubtedly hypersensitive to ordinary petulance discord and differences which happen in the life. Human sensitivity of each individual differs from person to person, each individual has his own idea of self-esteem and self-respect. Different people behave differently in the same situation. It is unfortunate the deceased committed suicide but the question is whether the petitioners can be connected with that unfortunate incident in any manner. The death of the deceased mother, the second marriage of the father would have some impact on the deceased and the instances stated are common in such circumstances. Also the father has right to appeal, but the deceased has stated that the father had filed appeal to torture the deceased, which indicates that the deceased is hypersensitive and had committed suicide. The core allegations against the petitioners do not



disclose any specific act of instigation, intentional aid, or active participation leading to the alleged suicide. The prosecution case rests on assumptions and inferences drawn from strained relationships, which, in law, do not constitute abetment of suicide. A suicide note, even if taken at face value, cannot fasten criminal liability unless it clearly establishes deliberate instigation. Hence the charge sheet on the face of it cannot be considered that the acts would attract the ingredients of section 306 read with section 34.

14. It is also seen that the prosecution case is riddled with inherent and fatal contradictions, which strike at its very root. In the FIR, it is categorically stated that the defacto complainant, along with neighbours, broke open the door and found the victim hanging, whereas in the counter filed before the Civil Court, a completely different version is projected stating that the police broke open the door. The two versions are mutually destructive that seriously undermine the credibility of the prosecution story. As stated supra the allegations indicates absolutely there is no link with that of the petitioners.

15. When there is complete absence of the essential ingredients for the alleged offences, then continuation of proceedings constitutes a clear abuse of the process of law and would amount to misuse of the criminal justice system and cause grave prejudice to the petitioners, thereby warranting to quash the



charge sheet. Accordingly, this Court in exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure is quashing the FIR filed in Crime No.211 of 2023 and consequently, quashing the charge sheet filed in PRC.No. 56 of 2023 against the petitioners. Therefore, the Crl.O.P.(MD)No. 17426 of 2023 is allowed.

16. The Crl.O.P.(MD)No.20072 of 2023 is filed by the accused Krishnamoorthi to transfer the case to 3rd respondent CBCID police for investigation. Since the FIR in Crime No. 211 of 2023 is quashed, the prayer to transfer the case to CBCID does not arise, hence, the Crl.O.P.(MD)No.20072 of 2023 is liable to be dismissed. Accordingly, Crl.O.P.(MD)No.20072 of 2023 is dismissed. Consequently, connected miscellaneous petitions are closed.

06.02.2026

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To

1. The Superintendent of Police,
Theni District, Theni.
2. The Inspector of Police,
Theni Police Station,
Theni.
3. The Inspector of Police,
CBCID, Theni.
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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Crl.O.P.(MD)Nos.17426 and 20072 of 2



S.SRIMATHY, J.

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ORDER MADE IN
Crl.O.P.(MD)Nos.17426 and 20072 of 2023

DATED : 06.02.2026