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Crl.OP(MD)No.14605 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	28/10/2024
Date of Pronounced	16/12/2024

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGOVAN

Crl.OP(MD)No.14605 of 2024

and

Crl.MP(MD)No.9102 of 2024

Sr.Sagaya Mary : Petitioner/Sole Accused

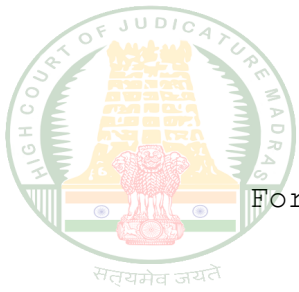
Vs.

- 1.The State Represented by
The Deputy Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption at A Wing,
IIIrd Floor, Rajaji Bhawan,
No.26, Haddows Road,
Chennai-600 008.
(CBI F.I.R No.:RC 1(S)/2022) : 1st Respondent/Complainant
- 2.Shri Muruganandam : 2nd Respondent/De-facto
Complainant

Prayer:- This Criminal Original Petition is filed under section 528 of BNSS, to call for the entire records pertaining to the impugned charge sheet in SC No.98 of 2024 pending on the file of the Sessions Judge, Mahila Court, Tiruchirappalli and the proceedings arising therefrom and quash the same as illegal and pass such further or other orders.

For Petitioner : M/s.Nithya Ramakrishnan
Senior Counsel
for Mr.Henri Tiphagne

For 1st Respondent : Mr.N.Mohideen Basha
Special Public Prosecutor for CBI



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For 2nd Respondent : Mr.N.Anantha Padmanabhan
Senior Counsel for
Mr.S.Poornachandran

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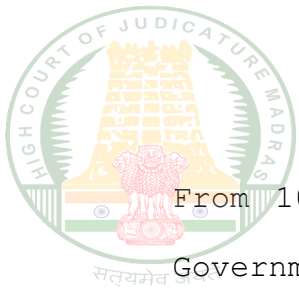
O R D E R

This criminal original petition is filed seeking quashment of the charge sheet in SC No.98 of 2024 pending on the file of the Sessions Judge, Mahila Court, Tiruchirappalli.

2.The facts in brief:-

(i)The deceased minor girl was studying 12th Standard in Sacred Heart Higher Secondary School, Trichy and staying in St.Michael's Girls Hostel (Children Home) attached to the school. At that time, the petitioner herein was the Hostel Warden.

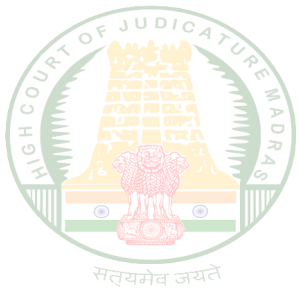
(ii)It is the allegation on the part of the prosecution that the petitioner herein was taking the deceased minor girl to various places in connection with the administration of the hostel. She was giving hostel works such as cleaning, grass cutting, etc. So, the deceased was unable to concentrate on her studies. This caused mental stress and agony. On 09/01/2022 at about 05.00 pm, the deceased consumed pesticide, taken for treatment, but vomiting continued. The parents were informed on 10/01/2022. They took the deceased to the home.



From 10/01/2022 to 15/01/2022, she was under treatment in Government Hospital, Kulathur and the Government Hospital, Thirumanur. Later shifted to Thanjavur Medical College and Hospital. But without responding to treatment, she died. Upon which, FIR was registered and the investigation was undertaken by the concerned police. But later, it was transferred to the 1st respondent herein. The 1st respondent herein took up the investigation and collected all the materials and finally, came to the conclusion that due to additional work of maintaining of accounts of the hostel, the deceased unable to focus on her studies; the petitioner alleged to have tortured the deceased by giving hostel accounts work and she did not allow the deceased to prepare 12th Standard examination.

3.For better understanding of the case of the prosecution, the following paragraphs can be extracted as mentioned in the final report.

"..Accused Sister Sagaya Mary has continuously exploited the minor girl by giving her entire accounts related work of hostel and at times even without permitting her to leave for home, and the deceased who had set high goals and



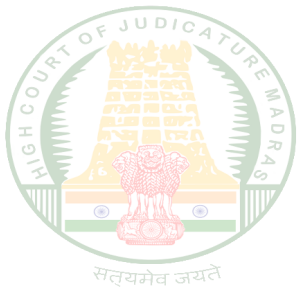
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ambitions in her studies was unable to concentrate on her studies and repeated scoldings for non-completion and mistakes in the accounts work over the period had caused severe mental stress and depression to the victim girl, and in spite of requests made to the accused sister Sagaya Mary to let her concentrate on her studies, the same was not heeded to by sister Sahaya Mary and this has resulted in the minor victim girl choosing to end her life as she could not handle the extreme stress caused by the mental pressure exerted by Sagaya Mary sister, which was directly affecting her mental well-being and lapse in concentration in her studies.

Further accused Sister Sagaya Mary, who was having control over the victim girl, being the Warden of the Girls Hostel, in spite of knowing fully well that her acts of exploiting work from her and preventing the victim girl from concentrating on her studies is causing



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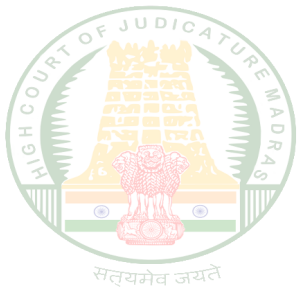
lot of mental stress and agony to the victim girl, continued to do so even after repeated request from from the victim girl to allow her to study, willfully neglected the genuine request of the victim girl and this has resulted in the suicide of the victim girl who could not bear with the mental torture exerted by Sister Sagaya Mary."

and finally, it is alleged that the petitioner herein committed the offences punishable under section 305 IPC and section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

4.Cognizance has been taken by the Special Court namely the Sessions Judge, Mahila Court, Tiruchirappalli, in SC No.98 of 2024.

5.Seeking quashment of the proceedings, this criminal original petition is filed.

6.Heard both sides.



'The road to hell is paved with good intentions'

..BIBLE.

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7.On this biblical verse, the case of the petitioner rests. According to her, being the Hostel Warden, who is more than a guardian, never would have intended the child to commit suicide. The child was supersensitive than the other childrens. As the hostel warden, she has given usual work only and no extra pressure work was given to the child. Her family situation was in a miserable condition. Her father was married second time. The mother of the deceased committed suicide and her step mother was treating her in an improper manner. She was unable to go to the home even for holidays. Such was the miserable condition in her house. When the position was like that, even for holidays, she was not intended to go to the home. Even on the particular day of the alleged occurrence, there was Pongal holiday for the school. But the deceased never intended to be in the home, but chose to remain in the hostel.

8.This, according to the learned Senior Counsel appearing for the petitioner, was the situation which caused mental stress, for which the petitioner has been put to blame.



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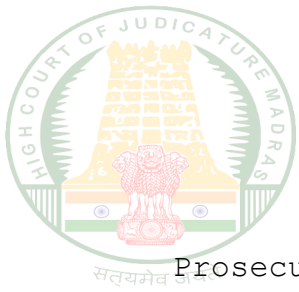
9.No doubt that a Hostel Warden who is more than a guardian would have never intended the child to commit suicide. But an important aspect is that when there is allegation to the effect that the petitioner created circumstances, which drove the deceased to commit suicide, then whether this court can undertake the exercise of deciding the intention on the part of the petitioner?

10.With this in mind, let us go to the basic principle, when the offence under section 305 IPC is framed.

11.The learned Senior Counsel appearing for the petitioner would submit the following principles:-

(i)The circumstance now the prosecution wants to rely must be of such nature that it created circumstance leads to anticipation or possibility of commission of suicide by the victim girl, is the relevant point to be considered; and

(ii)Mental state of the victim girl is not the deciding the factor, but the *mens rea* on the part of the accused.

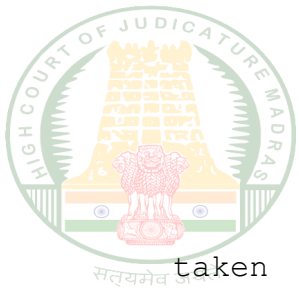


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12.Per contra, the learned Special Public Prosecutor appearing for the 1st respondent and the Senior Counsel appearing for the 2nd respondent/de-facto complainant would submit that the intention on the part of the petitioner can be brought on record only during the course of the trial and this is too a premature stage to undertake such sort of exercise; The dying Declaration given by the deceased to various authorities shows the mental stress, harassment, teasing underwent at the hands of this petitioner. So, this according to them, is the circumstance, which the prosecution is going to rely during the course of the trial.

13.We can concentrate mainly on the legal principles for the simple reason that factual circumstances can not be taken into account namely the family circumstances of the deceased, based upon the mere contention put forth by the petitioner from the statement recorded by the Investigating Officer with the school teachers, hostel-mates, school staff, parents, etc., no inference can be drawn and should be drawn by this court. Those facts should be brought on record during the trial.

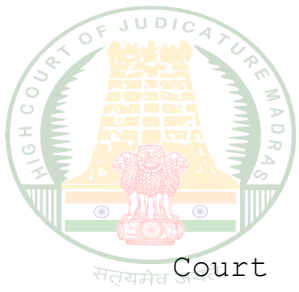
14.Now we will go to the judgments cited by the petitioner on the above said principles.



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15.As mentioned above, whether this exercise can be taken by this court exercising the jurisdiction under section 482 Cr.P.C can be clarified with the statement of law by the Hon'ble Supreme Court in the judgment reported in Madhavrao Jiwajirao Scindia and others Vs. Sambhajirao Chandrojirao Angre and others [(1988)1 SCC 692], wherein it has been held as follows:-

"7.The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised or any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak, and therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be a preliminary stage."



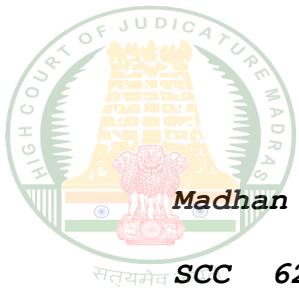
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16.Further the judgment of the Hon'ble Supreme Court which is considered to be followed on this proposition in **Bajan Lal's** case. I need not extract the relevant portion in the **Bajan Lal's** case, since it has universal application.

17.In this context, it can also be stated that what was initially appears to be the suicide committed by the child in the hostel turned upto the social crime.

18.Perusal of the records shows that the attempt was made to stamp this event as forcible religious conversion, but the 1st respondent Investigating Officer has done a remarkable job in a honest manner to bring out the truth. There was no ground reason for suspecting the allegation of conversion. This was fairly admitted by the learned Special Public Prosecutor at the time of argument. These things ought to have been avoided by the responsible persons. But damage ought not to have been made. But made, which cannot be repaired now. But this fact is not relevant for considering this petition.

19.Now coming to the power of the court to quash the proceedings when the offence under section 305 IPC is alleged, the judgment of the Hon'ble Supreme Court in

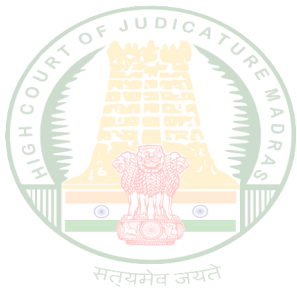


Madhan Mohan Singh Vs. State of Gujarat an another [(2010) 8

SCC 626] was referred by the learned Senior Counsel appearing for the petitioner. The relevant paras are extracted hereunder:-

"10.We are convinced that there is absolutely nothing in this suicide note or the FIR which would even distantly be viewed as an offence much less under [Section 306](#), IPC. We could not find anything in the FIR or in the so-called suicide note which could be suggested as abetment to commit suicide. In such matters there must be an allegation that the accused had instigated the deceased to commit suicide or secondly, had engaged with some other person in a conspiracy and lastly, that the accused had in any way aided any act or illegal omission to bring about the suicide.

11.In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide



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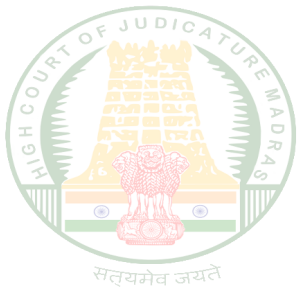


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note, it cannot be said that the accused ever intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this."

...

16.Insofar as [Section 294\(b\)](#) IPC is concerned, we could not find a single word in the FIR or even in the so-called suicide note. Insofar as [Section 306](#) IPC is concerned, even at the cost of repetition, we may say that merely because a person had a grudge against his superior officer and committed suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under [Section 306](#) IPC. It will still fall short of a proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant/accused to the effect that he had intended or engineered the suicide of the concerned person by his acts,



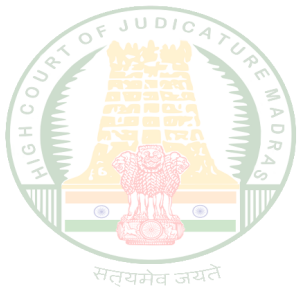
words etc. When we put the present FIR on this test, it falls short.

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20.In **Geo Varghese Vs. State of Rajasthan and another [(2021)19 SCC 144]**, it has been held as follows:-

"19.At this stage, we may also refer to another recent judgment of a two- Judge Bench of this Court in the case of *Ude Singh & Ors. Vs. State of Haryana*⁵, which elucidated on the essential ingredients of the offence under *Section 306* IPC in the following words:-

"16.In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of 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



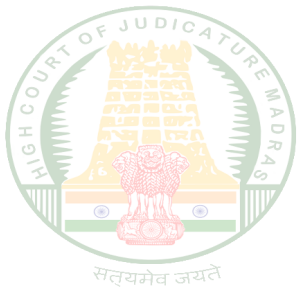
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deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. 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](#)



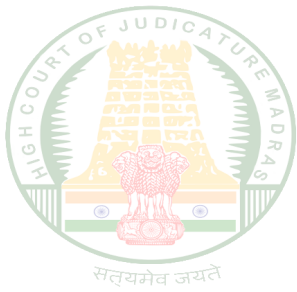
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306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part 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."

22.What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the



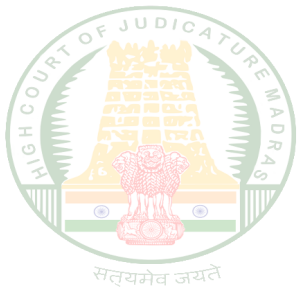
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commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.

39.Insofar as, the suicide note is concerned, despite our minute examination of the same, all we can say is that suicide note is rhetoric document, penned down by an immature mind. A reading of the same also suggests the hyper- sensitive temperament of the deceased which led him to take such an extra- ordinary step, as the alleged reprimand by the



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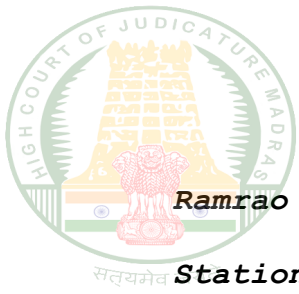
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accused, who was his teacher, otherwise would not ordinarily induce a similarly circumstanced student to commit suicide."

21.In ***S.S.Chheena Vs. Vijay Kumar Mahajan and another [(2010)12 SCC 190]***, it has been held as follows:-

"25.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 is 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 that act must have been intended to push the deceased into such a position that he committed suicide."

22.To show the parameters for the offence under section 306 IPC and 305 IPC are one and the same, the learned Senior counsel appearing for the petitioner would rely upon the judgment of the High Court of Bombay in



**Ramrao Kisan Rathod Vs. State of Maharashtra through Police
Station Officer (2020 SCC OnLine Bom 29).**

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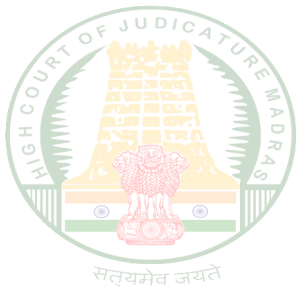
23.Per contra, the learned Senior Counsel appearing for the 2nd respondent/de-facto complainant and the Special Public Prosecutor appearing for the first respondent would rely upon the following judgments.

(i)Sharad Birdhichand Sarda Vs.

State of Maharashtra (1984) 4 SCC 116 on the point that Psychological aspect of deceased's personality can be examined only on the basis of the evidence to find tenancy to commit suicide and the factors responsible for development of suicidal tendency is also elaborately discussed in that judgment; and

(ii)Sunder Lal and State of

Rajasthan (2007)10 SCC 371 and Dhshrath Alias Champa and other Vs. State of Madhya Pradesh (2007)12 SCC 487 were relied by the learned Senior Counsel appearing for the de-facto complainant with regard to the principles to be



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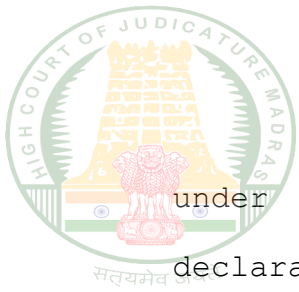


*adopted by the Courts while interpreting
the dying Declaration; and*

*(iii)The Central Bureau of
Investigation Vs. Aryan Singh Etc.,
(Criminal Appeal Nos.1028-1026 of 2023,
dated 10/04/2023 has relied on by the
learned Special Public Prosecutor that
this is not a stage to quash the
proceedings. As mentioned above,
according to him, it is too a premature
stage. According to him, this will
amount to mini trial.*

24.In view of the above said statement and settlement of law, now we will go to the other view expressed by the Hon'ble Supreme Court in some other cases namely (i)Parangounda and another Vs. The State of Karnataka and another [2023(14) Scale 642]; and Nipun Aneja and others Vs. State of Uttar Pradesh (2024 INSC 767).

25.In the judgment in Parangounda's case, the Hon'ble Supreme Court has expressed the view that if the accused has created circumstances which drove the deceased to commit suicide then the accused is liable to be punished

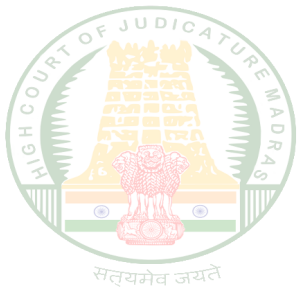


under section 306 IPC. In that case, there was dying declaration by the deceased. The offence alleged against the accused namely the husband and in-laws are under sections 304-B, 498(A) IPC. In the concluding para, the following observation was made:-

"...In the instant case the dying declaration of the deceased would clearly indicate that deceased was mentally traumatized and she was unable to tolerate the torture and harassment meted out by the accused person on account of which she committed suicide. It is this taunting or mental torture which she could not withstand and forced her to commit suicide by self-immolation. In that view of the matter, we are of the considered opinion that accused persons are liable to be convicted for the offence punishable under Section 306 IPC though charge was not framed."

26.These views are reiterated in the recent judgment of the Hon'ble Supreme Court reported in **Nipun Aneja and others Vs. State of Uttar Pradesh (2024 INSC 787)**. Paras 21 and 22 are relevant for extraction.

"21.The ingredients to constitute an offence under Section 306

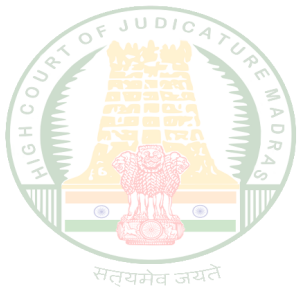


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of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the



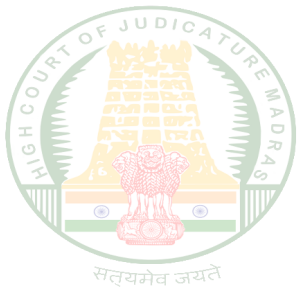
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expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large, the expectations and obligations are prescribed by law, rules, policies and regulations.

22.The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a fullfledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the

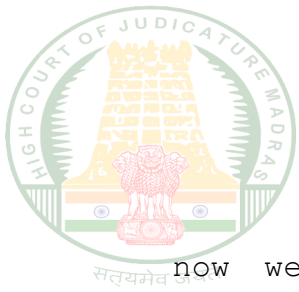


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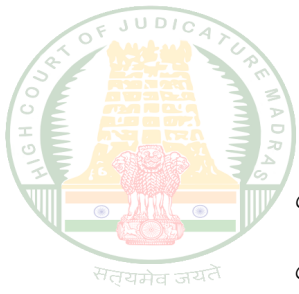
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common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them."



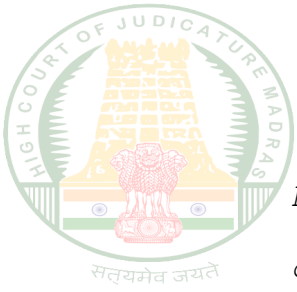
27.In the light of the above said statement of law,
now we will go to the dying Declaration given by the
deceased, which is extracted in the final report as under:-

"I am studying in Sacred Heart Higher Secondary School, Thirukattupalli, Michelpatti from 8th standard. I was studying and staying in a hostel there. One sister by name Sagaya Mary was looking after the hostel as warden. She used to tell me only that I should do the work related to accounts/audit the bills of the hostel. She used to scold me often. She would not allow me to go home during the holiday. If people from my house come and ask, she would tell that, I would study properly, only if I stay here. Since I have to study, I tell that I could not look after the accounts of the hostel. Without considering, she scolded that I was only looking after for the past four years, and hence should look after the account this year also, so saying, she refused to send me to go to my home on Christmas holiday and made me to write the accounts of the hotel. She did not teach me the work, but she compelled me and made me to



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complete the work. I tolerated since there is only one year remaining period of study to complete the course. She would not grant me leave if I fall sick. She scolded me that are you going to die? The hostel fees are also paid. Not provided food properly. Took me to the convent at Trichy and handed over the accounts of the hostel. Scolds me often, if anything is missing, she scolds me, she tells that I only had given it to someone outside. On 09.01.2022 at about 5 pm, I had eaten the herbicide which was in the hostel. Nobody knows it immediately, I vomited. That time the vomit was in green colour. While asking about that, I did not tell anything. Due to illness on 10.01.2022, I have gone to my home at Vadugapalayam, As I was feeling irritation/burning sense in my mouth, tongue and throat, took treatment in the medicals and Government hospital. Yesterday, I got irritation/burning sense in my stomach also. Hence, I told in my house about the consumption of poison. Only then, they admitted me here for treatment. Sagaya Mari again tortured me to write the accounts of the



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hostel bills. Because of that only, I had consumed the poison. She only is reason for my present position. Action should be taken against her. Nothing else.

Statement concluded at 4.56 pm.

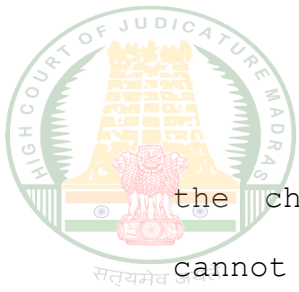
The patient was conscious, oriented and in fit state of mind throughout the recording of the Dying declaration.

Sd/-
Dr.Alwin Leonard Dani
Duty Asst. Physician

I confirm that he patient the victim girl as continuously conscious from the time of commencement of giving the statement to till the end and gave her statement clearly. It was recorded and read out to her, she accepted it to be correct and endorsed her signature in my presence. The doctor was also present from the time the statement commenced to till the end.

Sd/-
(A.Muhamed Ali)
Judicial Magistrate No.1,
Thanjavur.

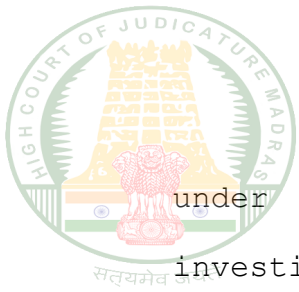
28.Dying Declaration given by the deceased, according to the prosecution, is sufficient enough to lay



the charge sheet. The truth of the dying Declaration cannot be tested by this court while exercising the jurisdiction under section 482 Cr.P.C.

29. In response to the dying Declaration and the argument advanced by the learned Special Public Prosecutor, the learned Senior Counsel appearing for the petitioner has submitted in the written argument that this runs quite contra to the judgment of the Hon'ble Supreme Court in **S.S. Chheena 's** case. The criminal case should be looked into not upon the perspective of the deceased, but upon the *mens rea* on the part of the petitioner. Some of the witnesses stated the position or situation of the deceased's home. This statement would show that the reasons mentioned in the dying Declaration are not sufficient enough to infer *mens rea* on the part of the petitioner.

30. Now the argument advanced on the part of the petitioner is based upon the statement recorded by the Investigating Officer during the course of the investigation, which according to her, runs contra to the dying Declaration of the deceased. So, I am afraid that whether this test can be taken by this court stating that the facts stated by the deceased in the dying Declaration run quite contra to the statement of the witnesses recorded

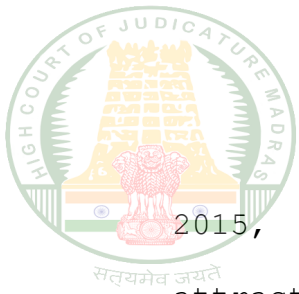


under section 161(3) Cr.P.C during the course of investigation and so, the dying Declaration is not believable. I am afraid that such an exercise can be taken by this court exercising the jurisdiction under section 482 Cr.P.C. As mentioned above, whether the facts or allegations made by the deceased in the dying Declaration are corroborated by evidence or not are all the matters to be considered by the trial court. As mentioned above, the trial court will concentrate upon whether the circumstances narrated are sufficient enough to hold the accused guilt.

31.The learned Senior Counsel appearing for the petitioner would further submit that even if the dying Declaration is taken on its face value, nothing can be inferred to the effect that the petitioner intended the deceased to commit suicide.

32.But in that circumstance only, the judgments of the Hon'ble Supreme Court cited above assumes importance. Whether the circumstances spoken by the deceased during the dying Declaration are sufficient enough, in my considered view can be tested only at the time of trial.

33.Apart from the above said penal provisions in the final report, the offence under section 75 of of the Juvenile Justice (Care and Protection of Children) Act,



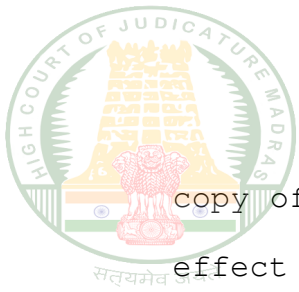
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2015, she would submit that the ingredients are not attracted. According to the learned Senior Counsel, the circumstance does not indicate even remotely the ingredients of the offence under section 75 of the Act are attracted. Again, this is a matter for consideration by the trial court at the time of framing appropriate charges. But *prima facie* does indicate that the offence under section 75 of the Act is not attracted. This can be taken into consideration by the trial court.

34.Coming to the opening paragraph of the discussion whether the road to hell is paved out of her good intention is a matter to be taken into account at the time of trial.

35.So, I am of the considered view that this is not a fittest case to exercise the jurisdiction under section 482 Cr.P.C to quash the proceedings. But however, considering the position of the petitioner, her personal appearance before the trial court is dispensed with.

36.In the result, this criminal original petition is **dismissed**. However, the personal appearance of the petitioner is dispensed with on condition that the petitioner shall appear before the concerned trial court within a period of 15 days from the date of receipt of a



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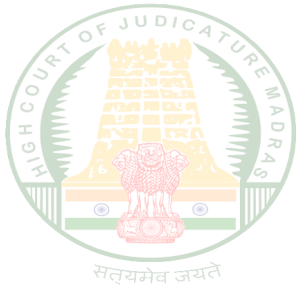
copy of this order and file an undertaking affidavit to the effect that she will appear before the trial court as when required and must ensure her proper representation through Advocate. Consequently, connected Miscellaneous Petition is closed.

16/12/2024

Index : Yes/No
Internet : Yes/No
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To,

- 1.The Sessions Judge,
Mahila Court,
Tiruchirappalli.
- 2.The Deputy Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption at A Wing,
IIIrd Floor, Rajaji Bhawan,
No.26, Haddows Road,
Chennai-600 008.
- 3.The Special Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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