

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2007

CORAM

THE HONOURABLE MR. JUSTICE K.N. BASHA

Crl.O.P.No.22507 of 2006  
and M.P.No.1 of 2006

K.Ravikumar

... Petitioner

1.State by:

Station House Officer,  
Grand Bazaar Police Station,  
Pondicherry, Pondicherry District.

2.Mrs.Rukmani

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records of the charge sheet and quash the criminal prosecution in P.R.C.No.8 of 2006 against the petitioner pending on the file of the learned Judicial Magistrate, Pondicherry, Pondicherry State.

For Petitioner : Mr.S.Vijayan

For Respondents : Mr.A.P.Suriyaprakash,  
Public Prosecutor, Pondicherry,  
for R.1  
Mr.G.K.Ilanthiraiyan, for R.2

ORDER

Learned counsel for the petitioner submits that the petitioner has come forward with this petition seeking the relief of quashing the proceedings pending against him in P.R.C.No.8 of 2006 on the file of the learned Judicial Magistrate, Pondicherry.

2. This is a very unfortunate case, wherein a student of II Year B.Tech. Course, Pondicherry Engineering College, Pondicherry has taken an extreme decision to put an end to his life by committing suicide by hanging, as he has obtained less marks in Mathematics than his expectation, as a result of which, the petitioner, who is the lecturer in Mathematics, Annamalai University, Chidambaram, has been implicated in this case for the alleged offence under Section 306 I.P.C., on the allegation that because of his negligent and careless correction of

papers, awarded 20 marks in the place of 54 and 61 marks, given after revaluation by other lecturers and as such, he has abetted the victim student to commit suicide.

3. The complaint was registered in this case on the basis of the report said to have been given by the mother of the victim on 11.07.2003 for the offence under Section 174 Cr.P.C.

4. It is stated by the mother of the victim in the complaint that her son, aged about 20 years, was studying in the Government Engineering College, Pondicherry and on 10.07.2003, he has received his mark sheet for the II Year Examinations in B.Tech. It is further alleged that after the receipt of the mark sheet, her son was very depressed and he has not properly taken his food in the night. It is stated in the complaint that on 11.07.2003 at 6.00 a.m., the victim was found hanging with a nylon saree at the pooja room of the house. It is also specifically stated by the mother of the victim in the complaint that the victim is said to have committed suicide as he has obtained less marks in the examination.

5. Apart from the complaint given by the mother of the victim as stated above, the father of the victim has also made a representation to the Pondicherry Government seeking action against the teaching staff for their reckless and hasty correction of answer papers. On such representation, an enquiry was conducted. The authorities were also directed for re-valuation. In the re-valuation, the victim is said to have secured more marks, as a result of which, the case was altered into one under Section 306 I.P.C.

6. Mr. S.Nagamuthu, learned counsel appearing for the petitioner made the following submissions:-

- (i) The materials available on record do not constitute a prima facie case under Section 306 I.P.C.;
- (ii) There is absolutely no material available on record to show that there was any nexus between the act of the petitioner and the cause of the death of the student namely, the victim in this case;
- (iii) The materials available on record do not attract the ingredients of the abetment under Section 107 I.P.C.;
- (iv) There are no materials available on record to show that the deceased student was neither known to the petitioner nor the petitioner was inimical towards the deceased student and there is absolutely no mens rea for the petitioner to commit the offence.

7. Per contra, learned Public Prosecutor, Pondicherry has contended that there are enough materials available on record to implicate

the petitioner for the offence under Section 306 I.P.C. It is contended by the learned Public Prosecutor, Pondicherry that the suicide note left by the victim also clearly shows that the deceased student decided to commit suicide only on the ground of scoring less marks and he has also clearly mentioned in the suicide note that there should be some solution for the careless and reckless valuation of papers by the teachers. Therefore, it is contended by the learned Public Prosecutor, Pondicherry that there is no ground made out by the petitioner seeking the relief of quashing the proceedings.

8. Mr.G.K.Ilanthiraiyan, learned counsel appearing for the second respondent / de facto complainant also contended that the materials available on record make out a *prima facie* case against the petitioner under Section 306 I.P.C. Learned counsel for the second respondent heavily placed reliance on the suicide notes left by the victim in this case. It is submitted by the learned counsel for the second respondent that in the suicide note, the victim has categorically stated that he has decided to put an end to his life only because of the lesser marks awarded to him.

9. I have carefully considered the rival contentions put forward by either side and also perused the entire materials available on record.

10. The perusal of the records discloses that this case was registered on the basis of the complaint given by the mother of the victim on 11.07.2003 under Section 174 Cr.P.C. In the complaint, there is no mention about the alleged suicide notes left by the victim in this case. It is seen that only subsequently the suicide notes were seized from the cot of the victim. The victim is said to have written one suicide note to his mother in Tamil and other suicide note in English to his friends. The perusal of the suicide notes discloses that there is absolutely no specific allegation levelled against the petitioner herein and there is only a general remarks against the University Correction System. It is mentioned in the suicide notes that the victim expected 100 out of 100 or 90 out of 100 in Mathematics, but he was given only 42 marks and as such, he was depressed. It is also mentioned in the suicide note addressed to his mother that there should be an end to the teachers, who are correcting the answer papers carelessly. The perusal of the suicide note further shows that there should be change in the University Correction System. The victim is also said to have requested his mother to hand over yet another letter written to his friends.

11. In the two other letters addressed to one of his friends and other friends, the victim expressed his regrets for having teased his girl friend and requested her to pardon him. The third suicide note addressed to his friends reveals that he was happy in the college along with his friends.

12. This Court is constrained to state that the above said suicide notes came into the picture only subsequently and not at the time of giving the complaint. Assuming that the said suicide notes are genuine, this Court is of the considered view that the said suicide notes only reflect the feelings of the victim about the improper correction system of answer papers by the University. From the reading of the suicide notes, it is not possible to conclude that the victim was personally known to the petitioner and the petitioner was having any grudge against the victim to award less marks. Therefore, this Court has no hesitation to hold that there is absolutely no material available on record to establish that the petitioner had any motive or intention to instigate the victim to commit suicide by awarding less marks.

13. Section 107 I.P.C. reads here under:-

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 the 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.

14. Section 306 I.P.C. reads thus:

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.

15. A reading of the above said two sections makes it crystal clear that the ingredients contemplated under the above said sections are not made out by the materials available on record in this case.

16. The Hon'ble Supreme Court has held in the case of *Randhir Singh v. State of Punjab* (2005 Supreme Court Cases (Cri) 56) as follows:-

" Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the

doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 I.P.C."

17. Therefore, as per the decision of the Hon'ble Apex Court as stated above, there should be an active role played by the accused, which can be described as instigating or aiding to commit the suicide. In the instant case, there is absolutely no material available on record to show that the petitioner played active role, which can be described as instigating or aiding the victim to commit the suicide. Even the only piece of material available on record viz. the suicide notes do not disclose the above said ingredients constituting the offence under Section 306 I.P.C.

18. In yet another decision, the Hon'ble Supreme Court in the case of *Netai Dutta v. State of West Bengal* (AIR 2005 SUPREME COURT 1775) has held as follows:-

" No averment in alleged suicide note that accused had caused any harm to deceased or was in any way responsible for delay in paying salary to him - no reference of any act or incidence in alleged suicide note whereby accused has committed any wilful act or omission or intentionally aided or instigated deceased in committing act of suicide - it cannot be said that accused had in any way instigated deceased to commit suicide."

19. The above said principle laid down by the Hon'ble Supreme Court is squarely applicable to the facts of the instant case. In this case also, a reading of the suicide note does not specifically refer about the conduct of the petitioner and does not disclose that the petitioner has committed any wilful act or omission or intentionally aided or instigated the deceased in committing the act of suicide. Assuming that the petitioner has corrected the answer papers in a negligent manner, that itself is not sufficient to mulct the petitioner for the allegation of committing any wilful act or omission or intentionally aided or instigated the victim to commit suicide.

20. A perusal of the original records produced by the learned Public Prosecutor, Pondicherry shows that the communication sent by the Investigating Agency to the Director of prosecution contains the following statement:-

" It is submitted that, Thiru Ravikumar (the petitioner herein), Lecturer, working in Annamalai University, Chidambaram, Tamil Nadu, awarded fail mark of 20 at the time of initial correction to the said student. It is very negligent on the part of said Thiru Ravikumar, but he made a correction without having any intention with the student Thiru S.Irwin Pyari Abivarma. He made correction based on dummy numbers which was given by the University authorities, as per the usual customs. Hence there is no chance for intention to the said Thiru Ravikumar, Lecturer,

for awarding of very lesser marks to that answer sheet of deceased Irwin Pyari Abivarma. During the time of re-valuation it was awarded by Dr.P.Vivekanandan and Thiru T.Sundararaj as 54 and 61 respectively."

21. There is absolutely no two opinion that the teaching staff should be more responsible and careful in correcting the answer papers of the students. But, at the same time, the younger generation viz., the students cannot resort to take the extreme step of putting an end to their life merely on the ground of getting lesser marks in the examination. It is always open to them to ask for re-valuation. Even in this case, after re-valuation, the victim secured more marks.

22. Therefore, for the aforesaid reasons, this Court has no hesitation to hold that allowing the proceedings to continue against the petitioner would amount to a clear case of abuse of process of Court and as such, the proceedings initiated against the petitioner in P.R.C.No.8 of 2006 pending on the file of Judicial Magistrate, Pondicherry, is liable to be quashed and accordingly, quashed and the criminal original petition is allowed. Connected M.P.No.1/2006 is Closed.

23. Before parting with this case, this Court is constrained to make the following observations:-

" Every year about 2% of suicides (n=2283) in India are committed following failure in exams, out of which 1280 are males and 1003 are females. (1) Around 68% of these suicides are from the five states of Andhra Pradesh, Karnataka, Maharashtra, Tamil Nadu and West Bengal. In Tamil Nadu 314 (M = 59, F = 155) committed suicide due to failure in exams.

There are a variety of factors which lead to these suicides which can be broadly classified into individual, family, educational, social and environmental factors.

(i) Over anxious and over ambitious parents:

Till 8<sup>th</sup> standard, the students are encouraged to participate in a variety of extra-curricular activities. All these are completely eliminated once they reach class 10<sup>th</sup> or 12<sup>th</sup> and they are forced to do nothing but study.

(ii) Comparison among their own children and others.

(iii) Criticism within the family.

(iv) Over expectation.

(v) The system of education has also become highly competitive.

(vi) A system of education which emphasizes only on scoring marks.

(vii) Pressure on the teachers from administration and parents.

(viii) Lack of career guidance and counselling in schools.

Prevention strategies:

(i) Educational reforms which can be

- a. Grading of marks:
- b. Multiple evaluation than a single evaluation.

2. Pre and post exam counselling for students, teachers and parents in all the schools.

3. Provision of counsellors in all the schools or at least a teacher who is trained."

[ Reference :

1. National Crime Records Bureau, Ministry of Home Affairs, Government of India, 2005.
2. Dr.G.Gururaj et al (2004). Risk factors to completed suicide in a case control study. Injury control and safety prevention. Vol.II, No.3 ).183-191.
3. Vijayakumar L. et al (2005). Suicide in Developing Countries. Prevention Efforts. Crisis. Vol.26:3 P.120-124. ]

The above findings make it crystal clear that the parents have to play a leading role to create courage and self confidence among their children. It is also equally very emergent and essential that every school or educational institution should provide counselling system to create courage and self confidence among the students to face the challenges in their career.

Therefore, in view of the above said serious problem resulting in the death of brilliant students, this Court is constrained to suggest that the educational institutions both private and Government should provide Pre and Post Exam Counselling System for the students, teachers and parents with a view to create positive thinking, courage and self confidence among the students to enable them to march towards a glorious future career.

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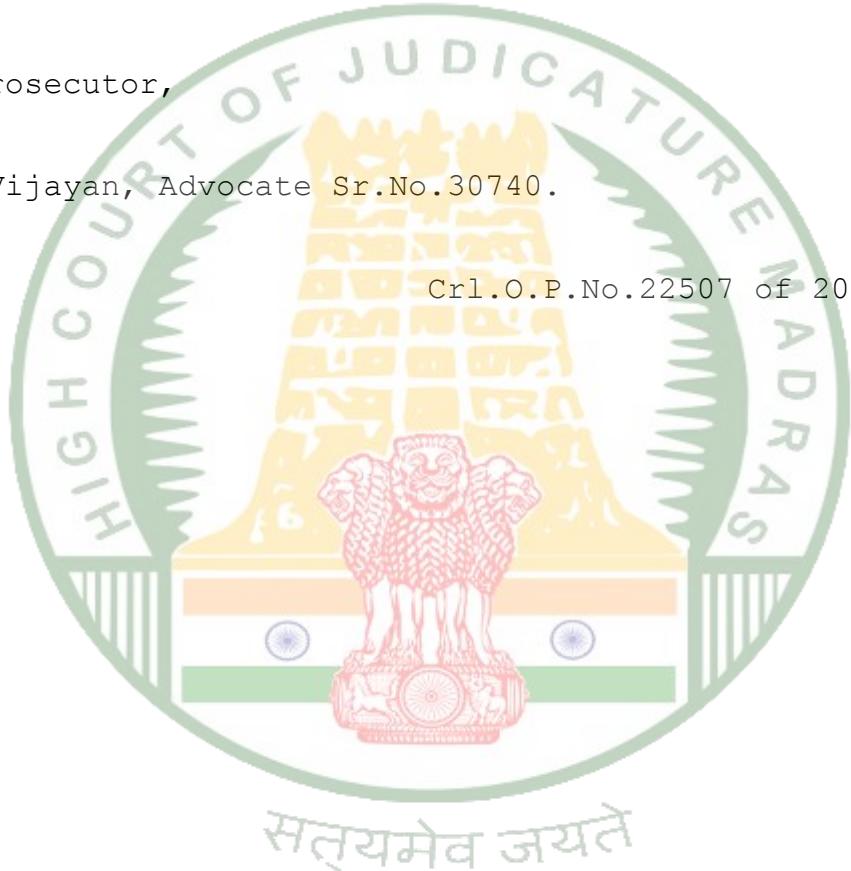
To

- 1.The Station House Officer,  
Grand Bazaar Police Station,  
Pondicherry, Pondicherry District.
- 2.The Judicial Magistrate,  
Pondicherry.
- 3.-do- Through The Chief Judicial Magistrate,  
Pondicherry.
- 4.The Public Prosecutor,  
Pondicherry.

+1 cc to Mr.S.Vijayan, Advocate Sr.No.30740.

PPV(CO)  
dcp/22.5.07

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