

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 20TH DAY OF JUNE 2024 / 30TH JYAISHTA, 1946

CRL.MC NO. 7228 OF 2019

CRIME NO.556/2016 OF Chavakkad Police Station, Thrissur

PETITIONERS/ ACCUSED :

1 MURALI@MURALIDHARAN
AGED 48 YEARS

2 SAJINI .P.R
AGED 38 YEARS

BY ADVS.
S.SREEKUMAR (KOLLAM)
K.VIJAYAN (V 726)

RESPONDENT/ STATE :

1 THE STATE OF KERALA
REPRESENTED THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM-682031

2 THE SUB INSPECTOR OF POLICE
CHAVAKAD POLICE STATION,
THRISSUR DISTRICT, PIN-680 506

BY SMT.SREEJA V., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
20.06.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

"C.R."

BECHU KURIAN THOMAS, J.

=====

Crl.M.C.No.7228 of 2019

=====

Dated this the 20th day of June, 2024

ORDER

Petitioners are the accused in C.P.No.48 of 2019 on the files of the Judicial First Class Magistrate's Court, Chavakkad, which arises out of Crime No.556 of 2016 of Chavakkad Police Station. Petitioners challenge the final report in the aforesaid crime.

2. According to the final report, petitioners are alleged to have abetted the offence of suicide of Sri. Ravi, who had hanged himself to death on 06.03.2016 after writing two suicide notes naming the petitioners as persons responsible for his death, thereby committing the offence under Section 306 read with Section 34 of the Indian Penal Code, 1860.

3. Smt.Namitha Rajesh, the learned counsel for the petitioner appearing on behalf of Adv. S. Sreekumar submitted that the prosecution allegations even if admitted in its entirety would not make out any of the offences alleged. It was further submitted that the two letters found on the body of the deceased did not connect the petitioners with any crime much less abetment of suicide. The only allegation in the two suicide

notes was that petitioners had filed a complaint in the police station against the deceased persons and when he was called upon by the police for investigation, he committed suicide. According to the learned counsel, under no circumstances can a complaint given by a person to a lawful authority be regarded as abetment of suicide.

4. Smt.Sreeja V., the learned Public Prosecutor submitted that the allegations against the petitioners are all factual in nature and therefore the merit can be decided only after due trial. It was further submitted that since the suicide notes referred to the involvement of the petitioners, the prosecution is justified and invocation of the remedy under Section 482 of Cr.P.C. is impermissible.

5. Section 306 I.P.C. deals with abetment of suicide. The word 'abetment' is defined in Section 107 I.P.C. As per the said provision, the offence of abetment will arise only when there is an instigation or goading by the accused to commit suicide. The act of instigation or goading must also be proximate in time to the act of suicide. A mere complaint to a lawful authority against a person cannot be treated as an abetment as contemplated under Section 107 I.P.C. A person is, by law, entitled to complaint against another to a lawful authority. On receipt of such a complaint, the competent authority is also entitled to inquire or investigate into the complaint as the case may be. If such acts are treated as abetment, then every individual will think twice before raising a complaint against a person, which would not augur well in the interests

of a welfare state. Filing a complaint before a lawful authority cannot amount to instigation or abetment of suicide, as the intention in filing the complaint is not to instigate or goad the deceased to commit suicide.

6. In this context, it is apposite to refer to a recent decision of this Court in **Dr. Radhika Kapahitia v. State of Kerala [2024 SCC Online Ker. 1344]**, wherein it has been observed that the essence of the offence of abetment to commit suicide is not what the deceased felt but what the accused intended. In filing a complaint before a lawful authority, it cannot be assumed by any stretch of imagination that the accused had intended the accused to commit suicide. In the decision in **Mahendra Singh and Another Gayatribai v. State of M.P. [1995 Supp. (3) SCC 731]**, the Supreme Court had considered the definition of the word 'abetment' under Section 107 I.P.C. and held that a mere allegation of harassment of the deceased would not be sufficient to attract the offence of abetment to commit suicide. In this context, Further, in another decision in **Vikas Chandra v. State of Uttar Pradesh and Another [2024 INSC 261]**, it is observed that abetment to suicide arises only when the accused had acted with an intention to bring about the suicide of the person concerned.

7. A perusal of the final report does not indicate that by filing a complaint before the police station against the deceased, the accused had intended that the deceased should commit suicide. In the absence of any material indicating an intention on the part of the accused to instigate the

CRL.MC NO. 7228 OF 2019

5

deceased to commit suicide, prosecution of the petitioners is an abuse of the process of the court.

Hence I quash the final report in Crime No.556 of 2016 of Chavakkad Police Station, which is now pending as C.P. No.48 of 2019 on the files of the Judicial First Class Magistrate's Court, Chavakkad.

The Crl.M.C. is allowed as above.

Sd/-

BECHU KURIAN THOMAS, JUDGE

RKM

APPENDIX OF CRL.MC 7228/2019

PETITIONERS' ANNEXURES :

- ANNEXURE A1 CERTIFIED COPY OF THE FIR IN CRIME NO.556/2016 OF CHAVAKAD POLICE STATION
- ANNEXURE A2 CERTIFIED COPY OF THE INQUEST REPORT IN CRIME NO.556/2016 OF CHAVAKAD POLICE STATION
- ANNEXURE A3 A CERTIFIED COPY OF THE CHARGE IN CRIME NO.556/2016 OF CHAVAKAD POLICE STATION
- ANNEXURE A4 A TRUE COPY OF THE INTIMATION RECEIVED FROM THE PUBLIC INFORMATION OFFICER, CHAVAKAD POLICE STATION REGARDING THE CASE REGISTERED AGAINST THE DECEASED RAVI
- ANNEXURE A5 A TRUE COPY OF THE CHARGE SHEET IN CRIME NO.652/2016 OF CHAVAKKAD POLICE STATION UNDER SECTION 447, 427 & 34 IPC ON THE STATEMENT OF THE FIRST PETITIONER/ACCUSED