

**Arumugam Vs. State**

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**Court :** Chennai

**Decided On :** Jul-22-2013

**Judge :** C.S.Karnan

**Appellant :** Arumugam

**Respondent :** State

**Judgement :**

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

22. 07 /2013 CORAM THE HONOURABLE MR.JUSTICE C.S.KARNAN  
Crl.R.C.No.20 of 2012 & M.P.Nos.1 and 2 of 2012 Arumugam ... Petitioner Vs.  
State: represented by Inspector of Police, Muthialpet Police Station, Crime No.3 of  
2008, Pondicherry State. ... Respondent PRAYER : Criminal Revision is filed  
under Sections 397 and 401 of Cr.P.C., to set-aside the order passed by the  
learned Additional Assistant Sessions Judge, Pondicherry made in Crl.M.P.No.13  
of 2011 in S.C.No.61 of 2010 in Crime No.3, on the file of the respondent, dated  
29.09.2011. For Petitioner : Mr.R.John Sathyan For Respondent :  
Mr.C.Balasubramaniam Additional Public Prosecutor \*\*\*\*\*

**ORDER**

The short facts of the case are as follows:- The respondent herein / police had registered a criminal case in Crime No.3 of 2008, for the offence alleged under Section 306 IPC against the revision petitioner herein / accused stating that the

accused Arumugam subjected his wife Sarasu to harassment and mental agony by suspecting her fidelity persistently, as a result of which, his wife Sarasu committed suicide by dousing herself with kerosene at about 23.30 hours on 05.01.2008 and thereby, the accused/husband/Arumugam rendered himself liable to be punished for abatement to suicide under Section 306 IPC.

2. The said case has been taken on file as S.C.No.61 of 2010, on the file of Additional Assistant Sessions Judge, Pondicherry for trial. At this juncture, the accused has filed Crl.M.P.No.13 of 2011 under Section 227 of Cr.P.C. and prayed to discharge him from the said criminal case, stating that there is no prima facie case against him. The respondent-police had filed objections and resisted the discharge petition. The learned judge after hearing the arguments of both sides and on perusing the case records, dismissed the said discharge petition. Against the dismissal of the said petition, the above revision has been filed.

3. The learned counsel for the revision petitioner contended that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the revision petitioner is an ex-serviceman attached to the Indian Army and had now obtained voluntary retirement. The learned counsel for the revision petitioner further submits that the petitioner has to take care of his minor daughter also. The main allegation levelled by the prosecution was that the petitioner allegedly subjected his wife to harassment and mental agony by suspecting her fidelity persistently and that due to this, she had doused herself with kerosene and set herself ablaze. The learned competent counsel further contended that initially the case has been registered under Section 147 Cr.P.C. Subsequently, it has been altered as 306 IPC, as such, the prosecution stand is an inconsistent one. As per the dying declaration, it has been stated by the deceased Sarasu to the police and to the Judicial Magistrate that the petitioner herein had allegedly quarreled with her suspecting her fidelity and cried out in shame and told her that he would commit suicide and thereafter, left the house and that she, unable to bear the same had committed suicide and therefore, it is clearly evident that the abatement of suicide does not arise in this case.

4. The learned competent counsel for the revision petitioner further argued that he himself took his injured wife to the hospital immediately in order to save her life. As such, he has taken much care on his wife. The wordy quarrel between the spouses does not amount to harassment or doubt of fidelity. The Deputy Tahsildar had also conducted an enquiry and did not find any reason to make out a prima facie case against the revision petitioner herein. Further, the alteration of Section had been made out after a lapse of one year.

5. The very competent counsel for the State vehemently argued that the prosecution has registered a case under Section 306 of I.P.C., after investigation. Now, charge sheet has been filed and 14 witnesses were listed and now the main case is ready for trial. Further, it is an admitted fact that the victim's death is not a natural one and also it is an admitted fact that she has committed suicide since the accused continuously tortured her mentally and physically stating that the victimized wife had developed illicit relationship with his brother Manohar. Finally, she was forced into a mentally depressed state and committed suicide for which, the accused is the main cause and therefore, a trial is absolutely important in order to determine the veracity of the case. In order to prove the said prosecution case the dying declaration is the main evidence and the same was recorded by the learned Magistrate. Further, P.W.3 is the eyewitness. Therefore, sufficient evidence is available to prove the prosecution case viz., charge sheet and other relevant documents which were annexed. Hence, the learned competent counsel entreats the Court to dismiss the above revision.

6. On verifying the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the impugned order of the trial Court, this Court does not find any lapse in the impugned order. It is seen from the records that the victim's death is not a natural one and that she committed suicide. Therefore, the reason for suicide is to be determined and hence, the accused presence is necessary before the trial Court for adjudication and as such, the revision, at the present point of time cannot be entertained. Therefore, this Court directs the learned judge to dispose the main case in S.C.No.61 of 2010, on topmost priority basis without being influenced by this Court's discussions.

7. In the result, the above revision is dismissed. Consequently, the order passed in CrI.M.P.No.13 of 2011 in S.C.No.61 of 2010, on the file of Additional Assistant Sessions Judge, Pondicherry, dated 29.09.2011 is confirmed. Connected miscellaneous petitions are closed. 22/ 07 / 2013 Index : Yes/No.Internet : Yes/No.r n s C.S.KARNAN, J.

r n s To 1.The Additional Assistant Sessions Judge, Pondicherry. 2.The Inspector of Police, Muthialpet Police Station, Crime No.3 of 2008, Pondicherry State. Pre Delivery order made in CrI.R.C.No.20 of 2012 & M.P.Nos.1 and 2 of 2012 22/ 07/2013

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