

Sivasankara Velu vs State Of Tamilnadu Rep. By on 25 February, 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.01.2025

Pronounced on : 25.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1307 of 2024

and

C.M.P(MD)No.13290 of 2024

- 1.Sivasankara Velu
- 2.Sivagama Sundari
- 3.Mageshwari

Vs.

- 1.State of Tamilnadu rep. by
The Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.
(Crime No.686 of 2019)

2. Selvaraj

(R2 is impleaded as per order of the Court, dated 09.01.2025 in Crl.M.P(MD)No.367 of 2025 in Crl.R.C(MD)No.1307 of 2024)

PRAYER : This Criminal Revision Case is filed under Sections 438 r/ 442 of BNSS, to admit this revision on file and to call for the record from the lower Court in Crl.M.P.No.65 of 2024 in S.C.No.235 of 2022 dated 16.11.2024 on the file of the Fast Track Mahila Court, Srivilliputhur, Virudhunagar District and duly set aside the same and consequently discharge the accused.

<https://www.mhc.tn.gov.in/judis>
1/16

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For Petitioners : Mr.S.Mohankumar
for Mr.K.Prabhu

For R1 : Mr.M.Vaikkam Karuna
Government Advocate

For R2 : Mr.V.Vivek Bharathi

ORDER

This Criminal Revision Case is filed against the order, dated 16.11.2024 passed in CrI.M.P.No.65 of 2024 in S.C.No.235 of 2022 on the file of the Fast Track Mahila Court, Srivilliputhur, Virudhunagar District and to set aside the same and consequently, discharge the petitioners/accused.

2.The brief facts of the case:

The revision petitioners are Accused Nos.1 to 3 in S.C.No.235 of 2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur. Initially, there were four accused in this case. It was alleged that the deceased Ashwini was daughter of the defacto complainant/2nd respondent and she was given marriage with one Arunachalam, son of Accused No.1, on 14.11.2013 and out of wedlock they have two children named Ananya and Siva Arumugavel. It is further alleged that after few years the husband of the deceased, who was <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) working in Chennai, left his job and came to his native place and since then the deceased was illtreated by the in-laws. So, the deceased left her matrimonial home in the year 2019 and was in depression and she committed suicide on 21.12.2019 along with the suicide note. Based on the complaint along suicide note given by the second respondent, the first respondent registered a case in Crime No.686 of 2019 U/s.174(3) of Cr.P.C. and after investigation, charge sheet was laid against the husband of the deceased and the petitioners (as Accused Nos.1 to 4) U/s.306 of IPC and the same was taken on file as P.R.C.No.24 of 2021 by the Judicial Magistrate Court, Rajapalayam. Then the criminal proceedings against the husband of the deceased/Accused No.1 was quashed by this Court as per the order passed in CrI.O.P(MD)No.19952 of 2021, dated 22.03.2022 and the case has been proceeded against the petitioners.

After furnishing copies to the petitioners/accused the case was committed by the committal Court and the case is now pending as S.C.No.235 of 2022 on the file of the Fast Track Mahila Court, Srivilliputhur. During the pendency of further proceedings, the petitioners have filed the petition under Section 227 of Cr.P.C. in CrI.M.P.No.65 of 2024 in S.C.No.235 of 2022 to discharge them from the case. The respondent police filed a counter objecting the discharge petition. On hearing both sides and after perusing the material records, the learned Sessions Judge, <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) Fast Track Mahila Court, Srivilliputhur found that there was a prima facie case against the petitioners and dismissed the petition for discharge by order dated 16.11.2024.

3. Aggrieved by the order of dismissal, the petitioners has come forward with this present Criminal Revision Case.

4. The defacto complainant has also been impleaded as second respondent on his petition.

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal Side) appearing for the first respondent and also learned counsel for the second respondent. Perused the records in this Criminal Revision Case.

6. The learned counsel appearing for the revision petitioners has argued at length and also submitted written arguments. The learned counsel mainly argued that the alleged charge is abetment to suicide U/s.306 of IPC against the petitioners. There is no offence of any nature made out against the petitioners. There is no material and there is no sufficient ground to proceed against the petitioners. The case of abetment <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) has to be dealt with Section 107 of IPC also. To make out the alleged charge of abetment there should be instigation, participation in the commission of offence, or aiding on the part of the accused to force the deceased to commit suicide. But, in this case, there is no such ingredient available against the petitioners. In the absence of such materials, the alleged offence U/s.306 of IPC is not attracted against the petitioners. The deceased committed suicide in her parental home after 5 months of leaving her matrimonial home as she was in depression. The DRO in his report has clearly stated that there is no dowry harassment on the petitioners' side. Moreover, the deceased had run a happy married life with her husband and gave birth to two children who were aged about 5 years and 2 years at the time of occurrence. Even as per the alleged suicide note there is no mentioning of any instigation or abetment on the part of the petitioners and it would not make out any ingredients to attract an offence U/s.306 of IPC. The suicide note has not been sent to the Handwriting Expert. The children of the deceased are still living with the petitioners. The third petitioner is the sister-in-law and she is living with her family at Chennai and she had no role in the personal life of the deceased and her husband (Arunachalam). The 161 Cr.P.C. statements are all of the interested witnesses of the defacto complainant and no independent witness was examined by the prosecution. The entire <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) proceeding was quashed against the husband of the deceased, who was originally arrayed as Accused No.1, by this Court. Therefore, the petitioners ought to have been discharged. The trial Court has not considered all these aspects, dismissed the petition for discharge and failed to hold that the alleged charge is groundless. Therefore, this criminal revision case may be allowed.

7. In support of his contention, the learned counsel has relied on the following citations:

- (1) AIR 2002 Supreme Court 1998 (Sanju @ Sanjay Singh Sengar /v/ State of M.P.)
 - (2) (2024) 3 Supreme Court Cases 665 (Prabhat Kumar Mishra @ Prabhat Mishra /v/ State of U.P.)
 - (3) Order passed by this Court in CrI.O.P. (MD) No.12664 of 2020, dated 20.10.2023 (S.Saranya & Others) /v/ State and Anr.)
 - (4) 2024 SAR (Cri) 1032 of Hon'ble Supreme Court in the case of "Shanmugasekar /v/ The State of Tamil Nadu)
 - (5) 2024 SAR (Cri) 1027 of Hon'ble Supreme Court in the case of "Rohini Sudarshan Gangude /v/ The State of Maharashtra and Anr.)
- <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm)

8. The learned Government Advocate (Criminal Side) appearing for the first respondent has objected the criminal revision case. The prosecuting agency has laid charge sheet only after thorough investigation. All the petitioners' contention raised in this criminal revision can be decided

only after full fledged trial. There are prima facie materials available to frame charge. The trial Court has properly discussed in its order that though the petitioners along with original Accused No.1 filed the quash petition, the petitioners have withdrawn the petition and from the suicide note the names of the petitioners are specifically mentioned. So, elaborate trial is essential to decide the issues. At the stage of framing charge, only a prima facie case is to be looked. The trial Court correctly held that there is a prima facie case made out against the petitioners and passed the impugned order. There cannot be said to be any material error or illegality in the impugned order. Hence, this criminal revision may be dismissed.

9. The learned counsel for the second respondent/defacto complainant argued the same contention of the first respondent. He would further submit that the brother of the second petitioner stated in his Sec.161 of Cr.P.C. statement that there was dowry harassment <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) against the petitioners. Moreover, the suicide note was sent to hand writing expert opinion and the report confirms the handwriting of the deceased. He would further submit that though the petitioners have filed the petition for quash before this Court, later they have withdrawn the same. He would further argued that this Court while quashing the case against the husband of the deceased, directed the trial Court to proceed with the case as against the petitioners and to complete the proceedings within six months. At the stage of framing charge, the trial Court has to go into the probative value of materials and it is not expected to go deep into the matter, the trial Court needs to consider whether there is a prima facie material available to frame the charge. In this case, sufficient prima facie materials are available. Therefore, there is no ground for discharging the petitioners from the case. The criminal revision case may be dismissed. In support of his contention, the learned counsel relied on the judgment of the Hon'ble Supreme Court in Criminal Appeal Nos. 1452-1453 of 2022, dated 05.09.2022.

10. On hearing both sides, it is clear that the petitioners arrayed as accused for the alleged offences U/s.306 of IPC. On perusal of material records, it is clear that the deceased is the daughter-in-law of petitioners 1 and 2 and the deceased got married with the son of petitioners 1 and 2. <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) Though the spouses lead a happy matrimonial life in the beginning and have two children, later the husband left his job and returned back to his native place and it is alleged thereafter, the deceased was subjected to harassment at the instance of petitioners and she left her matrimonial home and that she committed suicide in her parental home after 5 months. The prosecution alleged that the deceased wrote suicide note. On perusal of the suicide note it has been mentioned as, "vd; khkdhh; ngrpa thh;j;jfisa[k; khkpahh;

bra;j bfhLikfisa[k; ehj;jdh
Jnuhfq;fisa[k; vd;dhy; \$Puzpf;f
kd cisr;rYf;F cs;shfp ehd; gLk;

cq;fspk; gfpu kdk; tutpy;iy.. FHe;jfis tpl;L gphpa kdkpy;yhky; tpil bgWfpnwd;/ ..vd; Kotpw;F fhuzkhdth;fs; vd; ehj;jdh; knf];thp> vd; khkpahh; rptfhkp Re;jhp> vd; khkdhh; rptq;funtY....."

11. It is not in dispute that the petitioners along with the husband of the deceased, who originally arrayed as A1, have moved this court in CrI.O.P.(MD) No.19952 of 2021 to quash the proceedings.

However, the petitioners have withdrawn their quash petition. This court has elaborately dealt with the petition considering the provision of Sections 306 and 107 of IPC and rulings of the Hon'ble Supreme Court and quashed the proceedings as against the husband of the deceased alone. <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) This Court has passed the order in CrI.O.P.(MD)No.19952 of 2021 as follows:

“16. Therefore, in view of the above, the proceedings in P.R.C.No.24 of 2021 is quashed, the Criminal Original petition is allowed for the first accused alone. The learned Judicial Magistrate, Rajapalayam, is directed to complete the proceedings in respect of other petitioners within a period of six months from the date of receipt of copy of this order...”

12. Therefore, the petitioners were further proceeded with and after committal proceedings, the case is now pending for framing charges. As per the ruling relied on by the learned counsel for the second respondent, the Hon'ble Supreme Court held that at the stage of framing of charge, the probative value of the materials has to be gone into and the Court is not expected to go deep into the matter and hold that the matter would not warrant a conviction. The Hon'ble Supreme Court has rendered settled propositions in catena of decisions in respect of discharge petitions filed U/s.227 of Cr.P.C., It is settled that the Judge while considering the question of framing charge under Section 227 of Cr.P.C., in sessions cases, has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the Court discloses grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing the charge. While examining the discharge application filed under Section 227 of Cr.P.C., it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the Court is not supposed to hold a mini trial by marshalling the evidence on record.

13. In this criminal revision, though the petitioners raised several grounds, they are triable issues in the matter. On perusal of the statements U/s.161 of Cr.P.C., the very own brother of Accused No.2 gave statement that he heard that the deceased was subject to dowry harassment by the accused from the date of marriage. Of course, though it would be hearsay, as argued by the petitioners' counsel, at this stage it would not be ignored. Moreover, on perusal of Sec.161 of Cr.P.C. statement of DRO, who stated that “...brd;idapypUe;J rptfphpf;F Fobgah;e;J rptfphpapy; Tl;L FLk;gkhf trpj;j nghJ jk;gjpapdh; ,UtUk; gpur;ridapd;wp trpj;j nghjpYk;> gpw FLk;g cWg;gpdh;fshy; FLk;g gpur;ridfs; vGe;J jk;gjpapdh; kd thH;f;ifia <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) ghjpp;J re;njhrkpd;wp thH;e;J te;Js;sdh;ghjppf;fg;gl;l ,g;bgz; kd cisr;rypnyna je;ij tPl;oy; trpj;J te;Js;shh;..” The above facts could be taken as prima facie material. Moreover, the hearsay evidence can be accepted or not would be decided only after fullfledged trial based on other material

evidences.

14. In this case, the suicide note was sent to expert opinion and it is opined that the handwritten was made by the deceased. In the suicide note, the names of the petitioners are specifically mentioned and also the deceased stated about untold and undigested harassment alleged against the petitioners. Though the case was originally registered as against four accused, admittedly, the alleged offences as against Accused No.1 has been quashed by this Court. The quash proceedings of coaccused will not be a ground for discharge the petitioners. Moreover, the petitioners have also filed the quash petition, but they withdrew their quash petition for the reason best known to them.

15. The Hon'ble Supreme Court in a reported case in 2022 Live Law (SC) 741 (State by DSP /v/ Soundirarasu) discussed the scope of <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) revisional power against the order passed in discharge petition following the Munna Devi v. State of Rajasthan & Anr., (2001) and held in respect of scope of exercise of revisional power at the stage of framing of charge, which is as under:-

"3.The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."

16. Considering the above facts and circumstances, this Court while allowing the quash petition against the deceased's husband, directed to continue the proceedings as against the petitioners. There is no appeal preferred by the petitioners against the said order of this Court, however, they have participated the proceedings and received the copies of material records and thereafter the case was committed to the Sessions <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) Court for trial. So, there is no legal bar against the continuance of the proceedings or framing of charge as against the petitioners.

17. The rulings relied on by the petitioners' counsel are not applicable to the facts and circumstances of this case. Because, in this case, the suicide note specifically made allegations against the petitioners mentioning the names of accused and also the Sec.161 Statement of brother of the Accused No.2 is available. They could be taken as a prima facie evidence until final adjudication upon them after full-fledged trial. Therefore, this Court does not find any irregularity upon the order of the trial Court and does not warrant any interference. Therefore, this Court is not inclined to allow this criminal revision case.

18. In the result, this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is closed.

25.02.2025 NCC : Yes / No Index : Yes / No Internet : Yes / No VSD
<https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) To

1.The Fast Track Mahila Court, Srivilliputhur, Virudhunagar District.

2.The Inspector of Police, Rajapalayam North Police Station, Virudhunagar District.

(Crime No.686 of 2019)

3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) P.VADAMALAI, J.

VSD Pre - Delivery Order made in and 25.02.2025 <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm)