

(2009) 09 MAD CK 0305

Madras High Court

Case No: Criminal O.P. No. 14650 of 2009 and M.P. No. 1 of 2009

Jadesamy

APPELLANT

Vs

The State

RESPONDENT

Date of Decision: Sept. 14, 2009

Acts Referred:

- Penal Code, 1860 (IPC) - Section 306, 309, 392, 511

Hon'ble Judges: R. Regupathi, J

Bench: Single Bench

Advocate: S. Kamadevan, for the Appellant; N.R. Elango, Additional Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

R. Regupathi, J.

The petitioner, who is the accused in Cr. No. 15 of 2009 taken on file by the respondent police for offences punishable under Sections 392 and 306 read with 511 IPC on the allegation that the petitioner scolded the complainant for non-payment of lease amount and also taken possession of the two wheeler of the complainant, who attempted to commit suicide by consuming poison on account of the insult at the hands of the petitioner; seeks to quash the proceedings relating to the said Crime Number.

2. Learned Counsel for the petitioner, by adverting to the following observation of the Apex Court in Satvir Singh v. State of Punjab 2002 SCC (Cri) 48.

7. The person who attempts to commit suicide is guilty of the offence u/s 309 IPC whereas the person who committed suicide cannot be reached at all. Section 306 renders the person who abets the commission of suicide punishable for which the condition precedent is that suicide should necessarily have been committed. It is

possible to abet the commission of suicide. But nobody would abet a mere attempt to commit suicide. It would be preposterous if law could afford to penalise an abetment to the offence of mere attempt to commit suicide.

would submit that the alleged offence u/s 306 IPC is not made out.

By referring to the decision reported in Supreme 1 (2008) 508 (Venu @ Venugopal v. State of Karnataka), he submits that robbery is only an aggravated form of offence of theft or extortion and that in the case on hand, in the course of alleged theft, admittedly there was no violence on the side of the petitioner; thus, Section 392 is also not attracted; in such circumstances, the prayer sought for by the petitioner may be granted.

3. Per contra, learned Additional Public Prosecutor submits that investigation is at crucial stage and the respondent police may have to come to a conclusion one way or the other. According to him, depending upon the outcome of the investigation, in the event of the case of the petitioner turning to be true, the penal provisions may be deleted else, other penal provisions may also be added, in such a circumstance, the present petition to quash the investigation need not be considered at all.

4. I have perused the materials available on record. The case of the prosecution is that the complainant/lessee failed to pay the lease amount to the petitioner/lessor, who insisted upon for payment and on the occurrence date, while the complainant parked his motor cycle, the petitioner took away the same and stated that there is no meaning in person like the complainant, who could not even pay the lease amount, living in the world, whereupon, the complainant, who was hit by insult and felt ashamed, made an attempt to commit suicide by consuming Poisson, however was saved after receiving treatment in the Hospital. The complicity of the petitioner in commission of the alleged offence can be revealed only on conclusion of the investigation which is the exclusive domain of the Police. The investigating officer, depending upon the outcome, may conclude either way. In the event of the petitioner finding fault with the conclusion reached, he may challenge the same and also raise all the grounds raised here as his defence. Therefore, I am of the considered view that it is not proper to quash the investigation at a stage when the investigation is at midway.

5. Consequently, the Criminal original Petition is dismissed, however, the respondent police is directed to complete the investigation and file final report at the earliest. Connected Miscellaneous Petition stands closed.