

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06..10..2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.22759 of 2016
and
Crl.M.P.No.10617 of 2016

1.Dr.Karpagaselvi
2.Mrs.Jothimani ... Petitioners/Accused

-Versus-

1.State by
The Inspector of Police,
Tiruchengode Town,
Namakkal District.
[Crime No.62 of 2016]

2.N.Kumar ... Respondents/Complainant

Prayer: This petition is filed under Section 482 Cr.P.C. praying to call for the entire records relating to the case in Crime No.62 of 2016 pending on the file of the 1st respondent and to quash said case.

सत्यमेव जयते

For Petitioner(s) : Mr.G.Hariharan for
M/s.C.D.Johnson
For Respondent (s) : Mr.C.Emalias, APP for
R1

ORDER

This original petition has been filed seeking to quash the case in Crime No.62 of 2016 on the file of the 1st respondent police.

2. The wife of the de facto complainant appears to have been treated by the 1st petitioner and during the treatment, died pursuant to which a case in Crime No.62 of 2016 has been registered by the 1st respondent police on 27.02.2016 for offence under Section 304-A of IPC against the petitioners challenging which they are now before this court with this original petition.

3. The learned counsel for the petitioners submitted that the 1st petitioner herein was an Assistant Surgeon at the Government Hospital, Tirukoilur and the 2nd petitioner was working as a Staff Nurse at the said hospital and that when the de facto complainant's wife developed labour pain, they have given proper treatment but despite which she died and hence, the FIR is abuse of process of law.

4. In Jacob Mathew v. State of Punjab, (2005) 6 SCC 1 the Hon'ble Supreme Court has stated that a prosecution for medical negligence must be initiated only after a thorough inquiry by consulting the other experts. In this case the FIR cannot be quashed at the threshold. However, a direction could be given to the 1st respondent to follow the mandates laid down by the Hon'ble Supreme Court in Jacob Mathew v. State of Punjab (2005) 6 SCC 1, conduct investigation thoroughly and if it is found that there is no negligence on the part of the accused, it is needless to state that action against them shall be dropped.

5. In the result, this criminal original petition is disposed of with the above directions. Consequently, connected MP is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
Tiruchengode Town,
Namakkal District.

2.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.22759 of 2016

pvs[col]
srg 15/11/2016



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