

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.02.2019

CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2632 of 2019
and Crl.M.P.No.1713 of 2019

Deena Dayalan

... Petitioner/A-12

Vs.

1.The State Represented by
The Inspector of Police,
W-6, All Women Police Station,
Ayanavaram, Chennai - 600 023 ...Respondent-1/Complainant

2.Shivangi Khubchandani ...Respondent-2/De-facto/
Complainant

PRAYER: Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records pertaining to the
proceedings in S.C.No.407 of 2018 pending on the file of the
Hon'ble Session Mahila Court, Chennai - 600 104 as against the
petitioner / A-12 and quash the same.

For Petitioner : Mr.R.Mohandoss

For 1st Respondent: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records
pertaining to the proceedings in S.C.No.407 of 2018 pending on
the file of the Hon'ble Session Mahila Court, Chennai - 600 104
as against the petitioner / A-12 and quash the same.

2. The learned counsel for the petitioner would submit that
the allegations made against petitioner are false and as such
the petitioner has been implicated falsely. He further submits
that the only allegation as against the petitioner is that he
hugged and kissed the victim. Except this, there is no
allegation against him. He would further submit that merely on
suspicion the petitioner has been implicated in this case
without any evidence. In this regard, he has relied upon the
order passed in Criminal Appeal No.961 of 2018 (Arising out of
SLP Crl.No.3712 of 2018 in the case of Dr.Sr.Tessy Jose and
Others Vs. State of Kerala, wherein it is held as follows:

"As per the medical records relied upon by the prosecution, the baby was attended to by appellant no.2 at 5.30 pm on 7th February, 2017. He advised that the baby be given to the mother. Therefore, appellant no.2 had no occasion to examine / treat the victim. 12.Appellant No.3 had not come in contact with the victim or the baby at all. Being the administrator of the hospital it was not possible for her to be aware of the details of each patient. Considering that the victim was brought to the said hospital for the first time on 7th February, 2017, it would not be possible for appellant No.3 to be aware of the circumstances surrounding the admission of the victim. Criminal Appeal No.961 of 2018 (@ SLP(Crl.) No.3712 of 2018) page 7 of 813. The knowledge requirement foisted on the appellants cannot be that they ought to have deduced from circumstances that an offence has been committed. 14. Accordingly, we are of the view that there is no evidence to implicate the appellants. Evidence should be such which should at least indicate grave suspicion. Mere likelihood of suspicion cannot be the reason to charge a person for an offence. Accordingly, these appeals are allowed and the proceedings against the appellants in the aforesaid Sessions Case No.460 of 2017 are hereby quashed."

3. The learned Additional Public Prosecutor would submit that on the direction of this Court, trial has been commenced in S.C.No.407 of 2018 on the file of the Hon'ble Session Mahila Court, Chennai. He further submits that trial court has already examined PW1 to PW4 and today the matter has been posted for examination of PW5.

4. It is seen that the case has been taken cognizance of by the learned Sessions Mahila Court, Chennai in S.C.No.407 of 2018 and trial has also been commenced, and even today the case has been posted for examination of PW5. Hence the above judgment relied upon by the learned counsel for the petitioner is not applicable that too at the stage of examination of PW's.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

lok

To

1.The Inspector of Police,
W-6, All Women Police Station,
Ayanavaram, Chennai - 600 023

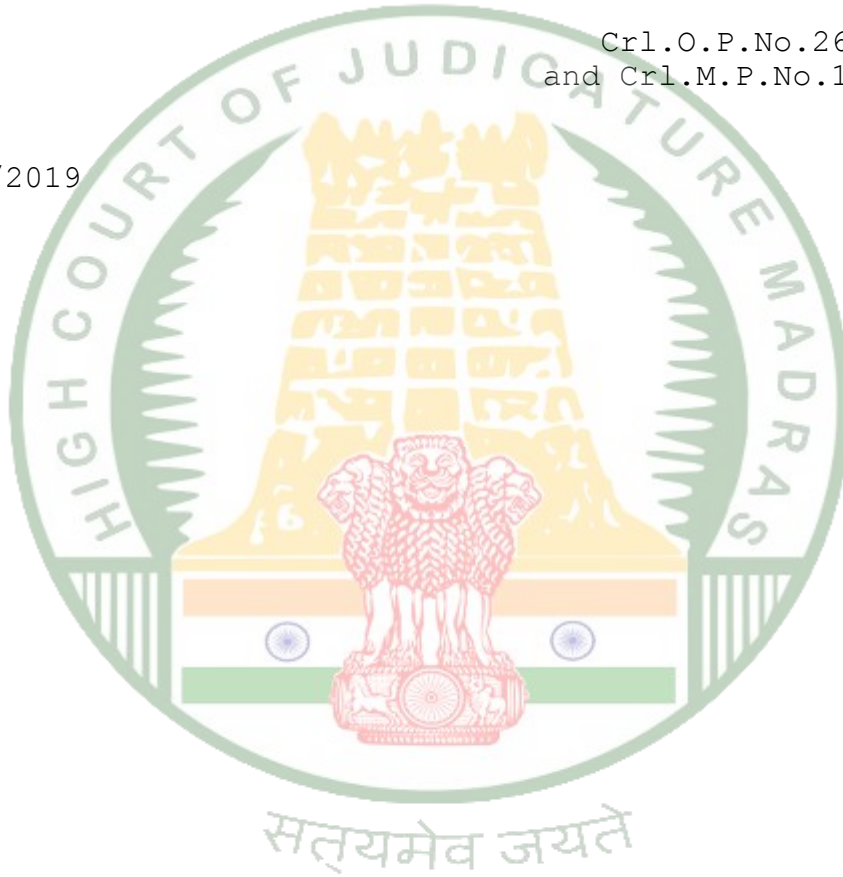
2.The Judge,
Session Mahila Court,
Chennai.

+2ccs to Mr.Swaminathan, Advocate, S.R.No.11112

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RSV(CO)

rrs 05/03/2019



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