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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.28411 of 2018

and

CrI.M.P.No.16552 of 2018

1.Ramamirtham
2.Mangaiyarkarasi
3.Kalaiivanan
4.Kalaiyarasi ... Petitioners

(petition is dismissed insofar as the petitioners 1, 2 and 4 and amended as per order dated 05.12.2018)

Vs.

1.The State rep. by
The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
(Cr.No.89/2016)

2. Arumugam ... Respondents

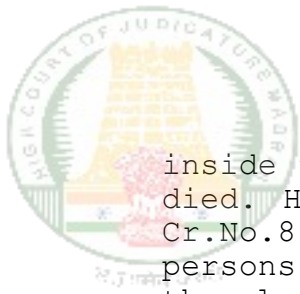
Prayer: Petition filed under Section 482 of Cr.P.C., to call for the records in S.C.No.328 of 2018 on the file of the learned Mahila Judge, Cuddalore and quash the same.

For petitioner : Mr.R.Karthikeyan
For RR1 : Mr.A.Gopinath
Government Advocate (Criminal Side)

O R D E R

The petitioners have filed this petition to call for the records in S.C.No.328 of 2018 on the file of the learned Mahila Judge, Cuddalore and quash the same.

2. The case of the 3rd petitioner is that the 3rd petitioner and the deceased Arul Priya were married on 12.11.2014 and the said marriage was objected by the other accused persons. Later, on 24.06.2016, when the deceased speaking with her husband A3, other accused persons entered the house of the deceased and abused A3 and the deceased, due to which, the deceased went



inside the house and poured kerosene and set herself on fire and died. Hence, the law enforcing agency has registered a case in Cr.No.89 of 2016 under Section 174 Cr.P.C against the accused persons. After investigation, the final report was filed before the learned Judicial Magistrate No.II, Chidambaram, for the alleged offences under Section 498A and 306 IPC, culminating into charge sheet in S.C.No.328 of 2018, on the file of the Mahila Court, Cuddalore. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the 3rd petitioner submitted that the 3rd petitioner is arrayed as A3 in the above said case and he is the husband of the deceased. On the date of occurrence, when the deceased was speaking with her husband, the other accused entered the house and abused both the deceased and the 3rd respondent. The deceased unable to tolerate the same, committed suicide and lost her life and even though, the 3rd petitioner tried to save his wife, all his efforts went in vain. The respondent Police has recorded a dying declaration from the deceased which was marked as evidence before the Trial Court. In the dying declaration, there is no allegation made by the deceased against her husband and she particularly stated that her husband did not commit any offence and it was only her in-laws, who were creating problems and induced the deceased to commit suicide. Since no ingredients of offence has been attracted, filing of FIR against the 3rd petitioner itself unsustainable and hence prays for quashment of S.C.No.328 of 2018.

4. The learned Government Advocate (Crl.Side) appearing for the petitioner submitted that the issue is a triable issue and the grounds raised by the counsel for the 3rd petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code and hence prays for dismissal of this petition.

5. This Court has considered the rival submissions and also perused the materials placed on record.

6. This Court vide order dated 05.12.2018, has dismissed the petition insofar as the petitioners 1, 2 and 4 are concerned. Therefore, at present, this Court is considering the matter in respect of the 3rd petitioner. The main contention advanced on behalf of the 3rd petitioner is that there is no allegation against him in the dying declaration given by the deceased.

7. It is the case of the prosecution that the 3rd petitioner is the husband of the deceased and other petitioners are in-laws and relative of the deceased. The prosecution was launched



against all the petitioners mainly placing reliance on the dying declaration said to have been given by the deceased. The prosecution case is to the effect that the deceased has implicated all the accused, inclusive of the 3rd petitioner, as the persons, who had induced her to commit suicide leading to her death. In order to ascertain whether the 3rd petitioner has been included as a person having been responsible for the cause for the deceased committing suicide, this Court perused the dying declaration given by the deceased. From a perusal of the same, it is evident that pointed allegations have been made only against the other accused and there is no whisper or any allegation against the 3rd petitioner as one of the person, who has induced the deceased to commit suicide. When the dying declaration is categorical and there being no allegation against the 3rd petitioner, roping in the 3rd petitioner as one of the accused in the crime cannot be sustained. For the reason aforesaid, this Court is inclined to quash the FIR as against the 3rd petitioner alone.

8. For the reasons aforesaid, this Criminal Original Petition insofar as the 3rd petitioner, is allowed and S.T.C.No.328 of 2018, on the file of the Mahila Court, Cuddalore, is quashed. Consequently connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

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To

1. The Judicial Magistrate,
No II, chidambaram
2. Do-through The Chief Judicial Magistrate,
Cuddalore
3. The Judge,
Mahila Court,
Cuddalore
4. The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.



5. The Public Prosecutor,
High Court of Madras, Chennai 600 104.

+1 C.C.to MR.R.KARTHIKEYAN, ADVOCATE, SR.NO.47584/2021

Cr1.O.P.No.28411 of 2018

EV(CO)
RA 22/10/2021