



Crl.O.P.No.11923 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.11923 of 2019

and

Crl.M.P.No.6191 of 2019

K.Balachandar

... Petitioner

-Vs.-

1.The State of Tamil Nadu,
rep by the Inspector of Police,
Nellikuppam Police Station,
Cuddalore.

2.B.Yuvaraja.

.. Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to crime No.513 of 2017 on the file of the Inspector of Police, Nellikuppam Police Station, Cuddalore District, quash the same.



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For Petitioner :Mr.A.Saravanan

For Respondent :Mr.N.S.Suganthan,
Government Advocate (Criminal side)
for R1

Mr.S.N.Arunkumar for R2

ORDER

The Criminal Original Petition has been filed to quash the FIR against the petitioner for the alleged offences under Sections 306 and 406 IPC.

2. The contention of the petitioner is that 15 years ago, he married one Venkateswari and she was having gynecology problem, so she was not able to conceive. After 15 years of continuous medication, she got conceived and a female child was born in the year 2015. However, prior to that, there was a matrimonial dispute leading to complaint given by petitioner's wife/Venkateshwari, alleging cruelty due to extramarital affair of the petitioner. The said petition was closed after compromise between



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the spouses and only thereafter a child was born to them. Unfortunately due to health reason, the said Venkateswari died on 19.07.2017. The postmortem report reveals that she died due to cardiac arrest. While so, the complaint given by the brother of deceased/Venkateswari has been taken for investigation and later the Sections were altered to 306 and 406 IPC.

3. The learned Government Advocate (Criminal side) submitted that after registering the case in Crime No.513 of 2017, which is initially under Section 174 of Cr.P.C, and later altered to Sections 306 and 406 IPC by the alteration report dated 08.06.2016, the investigation has been taken up and finally concluded that the said Venkateshwari died due to cardiac arrest and the cause for the cardiac arrest being found to be the mental stress caused by the petitioner. Therefore, the offences under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act [hereinafter “Act”] gets attracted and the same has been reflected in the final report dated 08.06.2018. However due to the interim order passed by this Court on 29.04.2019, the final report has not yet taken on file.



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4. The learned counsel appearing for the *de facto* complainant would submit that by committing adultery, the petitioner has caused mental cruelty and harassment to the deceased/Venkateshwari, which is the cause of her cardiac arrest. Two years prior to this incident, a specific complaint has been given by the deceased/Venkateshwari against this petitioner alleging harassment. Therefore, as there is a *prima facie* case made out against him, the petitioner cannot plead innocence to quash the complaint.

5. This Court, on perusing the CD files and the final report and also on perusing the provisions of harassment of women as in Section 4 of the Act, finds that the adultery life of the husband is considered to be the harassment to the wife. Therefore, since there is a *prima facie* material for prosecuting the petitioner for the offences under Section 4 of the Act and the final report has been filed for the said offence after completion of investigation, this Court finds no reason to interfere.

6. In view of the above, this Criminal Original Petition is dismissed.



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Consequently, the connected miscellaneous petition is also closed.

02.11.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa

To

1.The Inspector of Police,
Nellikuppam Police Station,
Cuddalore.

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

nsa

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and Crl.M.P.No.6191 of 2019

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