



Crl.O.P(MD).No.3683 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 28.04.2023

Delivered On : 07.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

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P.Valarmathi

...Petitioner

Vs

1.State rep. By
The Inspector of Police,
Sattur Town Police Station,
Virudhunagar.
In Crime No.729 of 2018

2.T.Muthu ...Respondents
(R2 impleaded as per order of this Court dated
04.03.2020 in Crl.M.P.(MD)No.2272 of 2020
in Crl.O.P.(MD)No.3683 of 2020 by GRSJ)

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the entire records pertaining to the C.C.No.94 of 2019 on the learned Judicial Magistrate No.II, Sattur, Srivilliputhur and quash the same.

For Petitioner	: Mr.S.Manikandan
For 1 st Respondent	: Mr.M.Sakthi kumar
	Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the chargesheet in C.C.No.94 of 2019 on



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the file of the learned Judicial Magistrate No.II, Sattur, Srivilliputhur.

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2.The case against the petitioner is that the defacto complainant married one Thangapandi and during the pregnancy of the second child, she went for a checkup at the Government hospital, Sattur. On 03.12.2018, the duty doctor advised blood transfusion as she was anemic. Blood was received from Sivakasi Government hospital. On 03.12.2018, there was blood transfusion to the defacto complainant and after that the defacto complainant had fever and she was informed that it will be settled down. On 05.12.2018, she was discharged from the hospital. She had fever and unbearable stomach pain and stomach upset. After taking blood samples from her, the doctors found that she was affected by HIV. Without eliciting the same, she was sent to Virudhunagar government hospital, the defacto complainant was informed that she was affected by HIV. Only because of the wrong committed by the doctor and other workers, she was affected by HIV virus. Due to which, the nine months child in the womb was also in danger of HIV. Hence, a case in Crime No.729 of 2018 was registered against the petitioner and others under Sections 269 and 338 of IPC. The case was taken on file as C.C.No.94 of 2019.



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3. On the side of the petitioner, it is stated that the blood samples are to be kept in a particular temperature from 2°C - 8°C. Only when blood was stored in a particular temperature, it would react to litmus in consequence of it, virus would be revealed out. The Sivakasi government hospital lack electricity connection. Thus the Lab was shifted to another place temporarily wherein the room temperature was not followed. As a result of which, the blood did not react to the litmus. The police officials who investigated the case did not know the technical probabilities, has filed the chargesheet against the petitioner. The petitioner found out some changes in the contaminated blood sample in the Lab and convey it to her immediate Superior by name Ganesh Babu but he was not even examined as witness. The petitioner was only a trainee. Only Ganesh Babu was responsible, but he was not impleaded.

4. On the side of the petitioner, it is further stated that before transfusion, the blood cross matching has to be conducted. Only after cross matching, the blood must be transfused to the recipient. The cross matching was done in a mechanical manner and the compatibility is to be tested before blood transfusion. It was the duty of Ganesh Babu Superior Technician to check the sample and then pass on it to the blood screening register. It was the duty doctor and nurses who diagnosed the defacto complainant, are responsible for the negligent act. The defacto complainant was having fever,



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which reveals non proper cross matching and hence, the petitioner is not responsible for the occurrence and the case against the petitioner is to be quashed.

5.On the side of the prosecution, it is stated that the petitioner is in charge of the Lab. O+ve blood was given by the Lab Technician. The blood was infected with HIV virus. The petitioner negligently mixed the blood with other blood and only due to negligence of the petitioner, the contaminated blood was transfused to the defacto complainant. Even the child in the womb was affected by HIV. Due to her, the life of two persons were affected and prayed the petition to be dismissed.

6.It is seen that the negligence of duty especially in the medical field is highly dangerous to the human life. Who was negligence and who was responsible for the occurrence can be decided only after the trial. This case requires detailed trial.



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7.In the above circumstance, this Criminal Original Petition is

dismissed.

07.06.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Inspector of Police,
Sattur Town Police Station,
Virudhunagar.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R. THARANI,J.

Mrn

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