



Crl.O.P(MD).No.13045 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.13045 of 2021

Jayachandran

...Petitioner

Vs

1.The State Represented by,
Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.
(Crime No.1454 of 2020)

2.D.Lakshmi

3.D.Kosimani

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in Crime No. 1454 of 2020 on the file of the first respondent police and quash the same so far as the petitioner is concern.

For Petitioner	: Mr.A.Sivasubramanian
For 1 st Respondent	: Mr.R.M.Anbunithi
	Additional Public Prosecutor
For 2 nd Respondent	: No Appearance

ORDER

This petition is filed to quash FIR in Crime No.1454 of 2020 on the file of the first respondent police.



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2. According to the petitioner, the defacto complainant lodged a complaint stating that the petitioner and deceased were living with her in-laws and that in-laws of the deceased right from the date of marriage used to ask the deceased to bring groceries whenever she returned back from her parental home and since the deceased was unable to live peacefully at the matrimonial home, she requested the petitioner to set up separate living house. For which, he refused. Hence, the deceased who was upset, left to the parental home and returned back on 20.12.2020. Further it is alleged that the in-laws of the deceased refused to permit her to enter the matrimonial home and also abused her. The mother in law, sister in law had caught hold of the hair of the deceased and pushed her down and the father in law had hit the deceased with bare hands by abusing her. Due to that incident, the deceased consumed rat poison and thereafter, she was admitted in Thanjavur Medical College Hospital on 20.10.2020 around 09.12 p.m., and thereafter, on the next day at 02.40 a.m., she was admitted in Kumbakonam Vijay Hospital where the statement of the deceased was recorded and FIR was registered by the respondent police in Crime No.1454 of 2020 under Sections 294(b) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act and thereafter, she was shifted to Thanjavur Government Hospital on 25.12.2020 and later she died on the same day at about 09.55 a.m. Hence, the first respondent altered the Section from Section 294(b) of IPC r/w. Section 4 of



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Tamil Nadu Prohibition of Harassment of Woman Act into Section 304(B) of

IPC. Initially the petitioner was not arrayed as accused in the FIR. Even no allegation was stated against him by the second respondent. Later the respondent police arrested the petitioner on 19.06.2021 alleging that on investigation, it came to light that knowing the acts of A1 to A3, the petitioner supported the acts of the accused. There is no any ingredients to attract the offence as against the petitioner. Hence, FIR against the petitioner is liable to be quashed.

3.No counter was filed on the side of the respondents.

4.The learned counsel appearing for the petitioner would contend that the defacto complainant had given complaint before the first respondent police and the first respondent registered the FIR in Crime No.1454 of 2020 for the offence Section 294(b) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act and thereafter, the defacto complainant who was admitted in the hospital, died on the hospital on 25.12.2020. In the FIR and complaint, the name of the petitioner was not mentioned and no allegation was levelled against the petitioner. Later the Investigating Officer arrested the petitioner on 19.06.2021 alleging that on investigation, it came to light that the petitioner knowing the acts of the accused supported the acts of the



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accused and thereby, he was included as accused and there was no offence as against the petitioner. Hence, FIR pending against the petitioner is liable to be quashed.

5.The learned Government Advocate appearing for the first respondent contended that the in-laws caused cruelty to the deceased and demanded groceries from the deceased's house and she left matrimonial home and thereafter on 20.12.2020, she again came to the house of the accused. At the time, A1 to A3 have beaten the deceased and not allowed her to enter into the house and thereafter, she consumed rat poison and she admitted in the hospital where her statement was recorded and Crime No.1454 of 2020 was registered under Section 294(b) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act. Thereafter, the petitioner admitted in Kumbakonam Vijay Hospital and then on 25.12.2020, she was shifted in Thanjavur Medical Hospital and she died on the same day. Hence, Section was altered into Section 304(B) of IPC. The petitioner was also arrested by the first respondent alleging that he supported the acts of the other accused. Thereby, this petition is liable to be dismissed.

6.This Court heard both sides and perused the materials available on records.



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7. On perusal of records, it reveals that there is no allegation as against the petitioner in the complaint and FIR. Initially FIR has been registered against the father-in-law, mother-in-law and sister-in-law and the petitioner was not included in the FIR. Thereafter, since the deceased died, Section has been altered into Section 304(B) of IPC. Then only, this petitioner was arrested alleging that he has also supported the acts of the other accused. The complainant who is the deceased herself, at the time of giving complaint has not stated anything about the petitioner and no any piece of evidence is available as against the petitioner. The first respondent arrested the petitioner by stating that the petitioner supported the acts of A1 to A3. As per earlier complaint, the petitioner was not present in the place of the occurrence and he has not participated in the aforesaid offence. Without any material, the first respondent has arrested the accused by stating that the petitioner has supported the acts of A1 to A3 in the aforesaid FIR. The inclusion of the petitioner in the aforesaid FIR is abuse of process of law. There is no sufficient material or evidence to include the petitioner in this case.

8. The present case comes under rarest of rare case and at this juncture, this Court would like to rely upon the decision of the Hon'ble Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and*



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Others reported in **2021 SCC Online SC 315**, wherein the Hon'ble Supreme

Court has issued some important guidelines, which reads as follows:

“i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;”



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9.In view of the above said discussion and the aforesaid judgment, this

Court is inclined to allow this application. Accordingly, this Criminal Original Petition is allowed and the impugned FIR in Crime No.1454 of 2020 is quashed as against this petitioner.

28.08.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

- 1.The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

Mrn

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