



Crl.O.P.(MD) No.1633 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD) No.1633 of 2023

and

Crl.M.P.(MD) Nos.1444 and 1447 of 2023

L.Dharma @ Dharmalingam,

: Petitioner

Vs

1. State represented by
The Inspector of Police,
Koodakovil Police Station,
Madurai District.
Crime No. 207/2016.

2. Jothi,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records relating to S.C.No.473 of 2020 pending on the file of the learned Sessions Judge, Mahila Court, Madurai and quash the same.



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For Petitioner : Mr.R.L.Dilipan Pandian
for Mr.D.Rajaboopathy

For R1 : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed seeking to quash the charge sheet in S.C.No.473 of 2020 pending on the file of the learned Sessions Judge, Mahila Court, Madurai.

2.The petitioner is the third accused in S.C.No.473 of 2020, on the file of the learned Sessions Judge, Mahila Court, Madurai.

3.The main contention of the learned Counsel appearing for the petitioner is that the petitioner is not a relative of the husband of the deceased and that therefore, the very filing of the charge sheet for the offence under Section 304 (B) is not sustainable. He would further submit that the case stands posted on 15.02.2023 for trial.

4.The learned Government Advocate (Crl.Side) would submit that the prosecution has specifically alleged that the petitioner is the relative of the



first accused.

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5.The learned Counsel appearing for the petitioner has relied on the statement of the defacto-complainant that the first accused is the employee of the petitioner and he also relied on the judgment passed by the Hon'ble Supreme Court in ***State of Punjab Vs. Gurmit Singh*** reported in (2014) 9 SCC 632, wherein the Hon'ble Supreme Court has specifically observed as follows:

'It is well known rule of construction that when the Legislature uses same words in different part of the statute, the presumption is that those words have been used in the same sense, unless displaced by the context. We do not find anything in context to deviate from the general rule of interpretation. Hence, we have no manner of doubt that the word "relative of the husband" in Section 304 B of the IPC would mean such persons, who are related by blood, marriage or adoption. When we apply this principle the respondent herein is not related to the husband of the deceased either by blood or marriage or adoption. Hence, in our opinion, the High Court did not err in passing the impugned order. We hasten to add that a person, not a relative of the husband, may not be prosecuted for offence under Section 304B IPC but this does not mean that such a person cannot be prosecuted for any other offence viz. Section 306 IPC, in case the allegations constitute offence other than Section 304B IPC.'

6.It is pertinent to note that the Hon'ble Supreme Court has specifically observed that even assuming that section 304(b) IPC is not attracted, does not



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mean that such a person cannot be prosecuted for any other offence, viz., 306 IPC in case the allegations constitute offence other than Section 304 (b) IPC.

7.In the case on hand, as already pointed out, the trial Court has already framed the charges and the case stands posted for trial.

8.At this juncture, the learned Counsel appearing for the petitioner would submit that the petitioner may be directed to file an application for alteration of charges.

9.Recording the submissions made on either side, this criminal original petition is disposed of. The petitioner is at liberty to file an application for alteration of charges under Section 216 Cr.P.C. If such an application is filed, the trial Court is directed to consider the same by taking note of the judgment passed by the Hon'ble Supreme Court in ***State of Punjab Vs. Gurmit Singh*** reported in ***(2014) 9 SCC 632*** and pass orders in accordance with law.



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10. With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

31.01.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
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To

1. The Inspector of Police,
Koodakovil Police Station,
Madurai District.

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



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K.MURALI SHANKAR, J.

lr

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