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CrI.O.P.No.11372 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.11372 of 2024
& CrI.M.P.No.7641 of 2024

1. Palanivel.
2. Kandhavel.
3. Alamelu.

... Petitioners/Accused 1, 2 & 4

/versus/

1. The Inspector of Police,
All Women Police Station,
Cuddalore,
Cuddalore District.
Crime No.28/2023.

... Respondent/Respondent

2. Jothi (Deceased)

... Respondent/Defacto complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the final report in C.C.No.174 of 2024 on the file of Judicial Magistrate, Additional Mahila Court (FAC), Cuddalore and quash the same.

For Petitioners : Mr.S.Senthilnathan

For R1 : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)



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ORDER

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The petitioners are accused in C.C.No.174 of 2024 on the file of the Judicial Magistrate, Additional Mahila Court (FAC), Cuddalore for the alleged offences under Section 498-A, 294(b), 506(1), 355 of I.P.C and Section 6(2) of Dowry Prohibition Act.

2. The Learned Counsel appearing for the petitioners submit that the petitioners are the husband, brother-in-law and mother-in-law of the defacto complainant/Jothi. The allegations made in the complaint are false, imaginary and contrary to the facts. The 1st petitioner, who was employed in abroad been sending money to his wife regularly and they have two children. While so, the complaint with false accusation as if he neglect and deprive the wife care and protection, besides sexual harassment by brother-in-law is made. There is no evidence for the said allegation. The complainant passed away on 17.01.2024 and therefore, there is no direct evidence. Hence, there is no purpose in proceeding against these petitioners.

3. The Learned Government Advocate (CrI.Side) for the 1st respondent submits that the complaint had disclosed offence of sexual harassment, neglect to take care of the wife and two children; and unlawful



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retention of Sridhana property of the complainant. The death of the complainant, pending trial cannot be a reason to exonerate these petitioners against whom serious overt act constituting the offence mentioned above been made out. The death of the defacto complainant is due to the wilful neglect of the 1st petitioner. Her death is consequence of neglect to provide medical care, which is an inferential to substantiate the complaint. It is a strong evidence against these petitioners to attract offences under Section 498-A of I.P.C and Section 6(2) of Dowry Prohibition Act and therefore, not a fit case to quash.

4. Heard the Learned Counsels. The complaint and the statement of witnesses clearly discloses ingredients necessary to try these petitioners for offences under Section 498 (A), 294(b), 506(ii) of I.P.C and Section 6(2) of Dowry Prohibition Act, 1961. In the absence of her husband, apart from sexual harassment by brother-in-law/2nd accused, allegation of abuse in obscene language and threat to kill the defacto complainant and two children, if the complainant refuse to accommodate the 2nd petitioner to his sexual desire are made and those are very serious allegation which from the statement of witnesses could be made out. The subsequent death of the defacto complainant cannot be a reason to quash the charge sheet in cases of this nature. In fact, the elder daughter of the deceased is now 15 years old and though her name is not



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been shown in list of witnesses, due to the demise of the defacto complainant, the minor children who are competent person to speak about the events happened during the last days of their mother. Hence, the prosecutor may take necessary steps to bring the minor girl to examine as additional evidence if so desired.

5. In fine, since there are *prima facie* material to file final report, the petition to quash the final report in C.C.No.174 of 2024 on the file of Judicial Magistrate, Additional Mahila Court (FAC), Cuddalore is hereby dismissed.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

24.06.2024

Index : Yes/No.
Neutral Citation : Yes/No.
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Copy to:-



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1. The Judicial Magistrate, Additional Mahila Court (FAC), Cuddalore.
2. The Inspector of Police, All Women Police Station, Cuddalore, Cuddalore District.
3. The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN, J.



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