



Crl.O.P.(MD).No.12982 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.03.2024

CORAM:

THE HONOURABLE Mr. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD).No.12982 of 2023

and

Crl.M.P.(MD).No.10158 of 2023

V.V.Balasubramanian

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Pattukottai.
(Crime No.5 of 2003)

...Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the impugned order dated 23.09.2022 made in Crl.R.C.No.19 of 2019 on the file of the IIIrd Additional District Judge, Pattukottai which was challenged against Crl.M.P.No.7477 of 2018 in C.C.No.1460 of 2004 on the file of the learned Judicial Magistrate, Pattukottai to set aside the same as illegal.

For Petitioner : Mr.M.Maharaja
For Mr.K.Pragadeesh Kumar

For Respondent : Mr.B.Thanga Aravindh
Government Advocate
(Criminal Side)



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ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had filed Crl.M.P.No.7477 of 2018 in C.C.No.1460 of 2004 before the learned Judicial Magistrate, Pattukottai seeking for deleting the charge under Section 494 IPC and the same was dismissed by the learned Judicial Magistrate, Pattukottai. Aggrieved by the same, the Petitioner herein had preferred Crl.RC.No.19 of 2019 before the learned IIIrd Additional District Judge, Pattukottai and the same was also dismissed. Aggrieved over the same, the Petitioner had filed this petition seeking to set aside the order dated 23.09.2022 made in Crl.RC.No.19 of 2019 before the learned IIIrd Additional District Judge, Pattukottai, which was challenged against Crl.M.P.No.7477of 2018 in C.C.No.1460 of 2004.

2. The learned Counsel for the Petitioner relied on the reported ruling in the case of *Bhaurao Shankar Lokhande and Another Vs State of Maharashtra and another* reported in *1965 AIR 1564 and* in the case of *B.Parvathi Vs The State of Andhra Pradesh in Criminal Revision Case No. 1116 of 2019 dated 07.05.2020.*



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3. The learned Government Advocate (Criminal Side) on instructions of the Respondent Police would submit that the petition lacks merits, the order of the learned Judicial Magistrate, Pattukottai was upheld by the learned Additional District Judge, Pattukottai. Therefore, the petition has no merits and it is liable to be dismissed. He would further submit that let the Petitioner face trial.

4. In the light of the reported ruling for offence under Section 494 IPC, it cannot be investigated by the Police and report cannot be laid before the Court concerned. As per the ingredients of offence under Section 494 IPC, the affected spouse alone is competent to lodge a private complaint, instead of private complaint, the investigation report is not maintainable.

5. In the light of the reported ruling stated supra, the submission of the learned Counsel for the Petitioner is accepted and the order passed by the learned Judicial Magistrate, Pattukottai in Crl.M.P.No.7477 of 2018 in C.C.1460 of 2004 is set aside. The offence under Section 494 I.P.C is deleted from the charge sheet in C.C.No.1460 of 2004, pending on the file of the learned Judicial Magistrate Pattukottai. The learned Judicial Magistrate,



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Pattukottai is directed to proceed with the trial regarding the other offences in
C.C.No.1460 of 2004.

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

Consequently, connected miscellaneous petition is closed.

05.03.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

- 1.IIrd Additional District Judge,
Pattukottai.
- 2.The Judicial Magistrate,
Pattukottai.
- 3.The Inspector of Police,
All Women Police Station,
Pattukottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

Nsr

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