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Crl.O.P.(MD)No.14238 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.14238 of 2022

and

Crl.M.P.(MD)No.9164 of 2022

C.Lakshmi

... Petitioner/A1

Vs.

1.State Rep.by

The Inspector of Police,
Samayanallur Police Station,
Madurai District.
Crime No.118 of 2021.

2.Karthick

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in S.C.No.132 of 2022 on the file of the learned Sessions Judge (Mahila Court), Madurai and quash the same as illegal insofar as the petitioner/A1 concern.

For Petitioner : Mr.S.S.Kumar

For Respondents : Mr.P.Kottaichamy
Government Advocate (Crl. side) for R1

No Appearance for R2



ORDER

This petition has been filed to quash the proceedings in S.C.No. 132 of 2022 on the file of the learned Sessions Judge (Mahila Court), Madurai, insofar as the petitioner/A1 concern.

2.The case of the prosecution is that the second respondent/defacto complainant is the brother of the deceased, namely, Mrs.Kirubarani. Accused Nos.2 and 3 are the erstwhile tenants of the petitioner and the fourth accused is the husband of the deceased. The fourth accused/husband of the deceased frequently quarrelled with the deceased in a drunken mode. Thereby, the deceased had illegal intimacy with others. On 17.03.2021 at about 10.30 a.m., when the deceased was in her matrimonial house, the petitioner and the second accused came there and informed about the attitude of the deceased and also shown the call details and recorded telephonic conversation of the deceased with the other persons. As such, the fourth accused had fight with the deceased. Due to which, the deceased got infuriated and committed suicide by setting fire herself. Hence, the second respondent made a complaint before the first respondent police and the same was registered in Crime No.118 of 2021 against the petitioner and others for the offences under Sections 294(b), 109 of IPC r/w 4 of the Tamil Nadu Prohibition of



Harassment of Women Act. After investigation, the same was altered into Sections 294(b), 109 and 306 of IPC r/w 4 of TNPHW Act. Thereafter, the first respondent police laid the charge sheet against the petitioner and three others for the above said offences before the learned Judicial Magistrate Court, Vadipatti and subsequently, it has been committed to the learned Principal District and Sessions Judge, Madurai and now the case is pending before the learned Sessions Judge (Mahila Court), Madurai. Challenging the same, the present petition is filed.

3.The learned counsel for the petitioner would submit that to satisfy Section 306 IPC, the necessary ingredient to instigate the deceased to commit suicide is required and in the present case, there is no instigation of forcing the deceased to commit suicide and that the petitioner is not at all available in the scene of occurrence. He would further submit that the ingredients of the alleged sections are also not forthcoming from the records as against the petitioner and the allegations contained in the complaint and the charge sheet do not satisfy the case against the petitioner and as such, the pending proceedings is liable to be quashed.



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4.The learned Government Advocate (Crl. side) would submit that all those issues raised before this Court are triable issues and it can be canvassed only at the time of trial and not before this Court under Section 482 of Cr.P.C. In the present case, a dying declaration was available against the petitioner and others and accordingly, he prayed for dismissal of this petition.

5.In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against her. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

6.A perusal of the records would go to show that all the issues that are raised before this Court can be raised and canvassed before the trial Court at the time of trial and not before this Court under Section 482 of Cr.P.C. Since it is stated that dying declaration of the deceased was



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available to implicate the petitioner and others, the prayer sought for by the petitioner cannot be granted by this Court.

7. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

21.03.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
Sji

To

1. The Sessions Judge (Mahila Court), Madurai.
2. The Inspector of Police,
Samayanallur Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

Sji

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