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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.17853 of 2024
and
Crl.M.P.Nos.10603 & 10604 of 2024

1.Balachandar
2.Sundar
3.Sathya Kumari
4.Aravindha Kumar S ... Petitioners

Vs.

The State Rep.by
The Inspector of Police,
All Women Police Station, Adyar
Dr.Muthu Lakshmi Road, Indira Nagar,
Adyar, Chennai, Tamil Nadu-600 020.

2.Purusothaman ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., pleased to call for the records and quash the charge sheet in C.C.No.1032 of 2022, pending on the file of the learned IX Metropolitan Magistrate, Saidapet.

For Petitioners : Mr.Rahul JAgannathan

For R1 : Mr.S.Udayakumar
Government Advocate (Crl.Side)

O R D E R

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On a complaint given by Mr.Purusothaman, the 1st respondent police has registered a case in Crime No.13 of 2020 and on completion of investigation, final report filed and taken on file by IX Metropolitan Magistrate, Saidapet in C.C.No.1032 of 2022. Accused persons are his daughter's husband, father-in-law, mother-in-law and brother-in-law.

2. The petition to quash is filed on four grounds (i) on the date of registering the complaint, there was no relationship of husband and wife between the 1st accused and the daughter of the complainant (2) the complainant has not obtained any authority or authorization to give complaint on behalf of his daughter (3) to attract offence under Section 352 IPC, there must be injury and document to support the injury. As far as this case is concerned, there is no wound certificate to substantiate and frame a charge for offence under Section 352 IPC (4) there is no evidence to show that 130 sovereigns of jewels has given as stridhana or in possession of A2 to A4. Even otherwise as per the latest judgment of the Hon'ble Supreme Court, Stridhana property given during the time of marriage cannot be revert back to the parents of the bride and therefore, the complainant cannot have any right or claim over the Stridhana

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property to charge A2 to A4 for offence under Section 406 IPC.

3. The learned counsel appearing for the defacto complainant submits that the complaint regarding cruelty, breach of trust and other marital crime was reported to the parents much before the grant of divorce. Since, at that point of time, the 1st accused was residing in Australia, police initially did not register the complaint and therefore, the petitioner filed application before the Metropolitan Magistrate under Section 156(3) Cr.P.C., and pursuant to the order passed by the IX Metropolitan Magistrate, Saidapet in Crl.M.P.No.7965 of 2020 dated 27.02.2020, the complaint was registered by the respondent police and thereafter, completed the investigation and filed final report and also submits that the Investigating Officer has recorded the statement of his daughter who is the victim of the crime and she has explained how she was subjected to cruelty and how jewels given to her been taken away by the accused persons. The subsequent event such as consent divorce granted by the Australian Court to be confined only for the marital relationship and that could not erase away all the cruelty and crime committed during the existence of the marriage. The learned counsel appearing for the defacto complainant/respondent further submits that

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since the daughter of the complainant had gone to Australia for her avocation and livelihood, complaint been pursued by the 2nd respondent.

4. This Court, on perusing the record and hearings the submissions made by the counsels, is of the firm view that in the matrimonial dispute, Court cannot take a decision in all cases applying the view expressed by higher Courts without testing the facts which may differ, case to case. Here is a case where it is alleged that the marriage took place in the year 2016, the spouse have gone to Australia in the year 2018, a child was born through the wedlock in the year 2019 and thereafter, discord development which has resulted in lodging the complaint through Metropolitan Magistrate in the month of February 2020. No doubt, the Australian Court has granted dissolution of marriage vide order dated 09.06.2020. The consent divorce granted cannot be taken as an order to exonerate the crimes committed in India, which are cognizable and triable. The subsequent dissolution of marriage in any case cannot take away the criminality committed unless and until, the victim who is the sufferer of the crime condone the act of crime on the face of records. The investigation which has led to filing of final report indicates that Mourisha, the daughter of the defacto complainant had

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subjected to cruelty by her husband and relatives of her husband, when the marriage was in subsistence.

5. The prosecution has laid for the act committed when the marriage was subsistence and therefore the case cannot be quashed, when the material relied by the prosecution apparently disclose the commission of cognizable offence.

6. The learned counsel appearing for the 2nd respondent submits that the prime victim of the crime is Mourisha and the collateral damage suffered by her father, the defacto complainant. The daughter of the complainant will be coming down to India soon and ready to even substitute herself in the place of her father and pursue the prosecution.

7. In the light of the above facts and circumstances, this Court is of the view that it is not a case to quash, since the commission of cognizable offence been made out to the evidence collected in the course of investigation. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed. The observation made in this Criminal Original Petition is

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confined to decide the quash petition and no other purpose.

30.08.2024

Neutral Citation : Yes/No
rpl

To

1.The IX Metropolitan Magistrate, Saidapet, Chennai.

2.The Inspector of Police,
All Women Police Station, Adyar
Dr.Muthu Lakshmi Road, Indira Nagar,
Adyar, Chennai, Tamil Nadu-600 020.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN,J.

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Crl.O.P.No.17853 of 2024

30.08.2024

ITEM NO.14 COURT NO.13 SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 63250/2026

[Arising out of impugned final judgment and order dated 30-08-2024 in CRLOP No. 17853/2024 passed by the High Court of Judicature at Madras]

BALACHANDAR & ORS. Petitioner(s)

VERSUS

THE STATE REP. BY THE INSPECTOR OF POLICE & ORS. Respondent(s)

**(IA No. 319318/2026 - CONDONATION OF DELAY IN FILING
IA No. 319315/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)**

Date : 29-10-2026 This matter was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE UJJAL BHUYAN
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR**

**For Petitioner(s): Ms. Arundhati Katju, Sr. Adv.
Mr. Rahul Jagannathan, Adv.
Mr. Aaditya Mishra, Adv.
Ms. Ritika Meena, Adv.
Mr. Abhiroop Singh, Adv.
Ms. Muskaan Khurana, Adv.
Mr. Dewansh Shukla, Adv.
Mr. Ranjay Kumar Dubey- 3302, AOR**

**For Respondent(s): Mr. B. Karunakaran- 3845, AOR
Mr. Kamesh Gaud, Adv.
Mr. Akhil Krishnan, Adv.**

UPON hearing the counsel the Court made the following
O R D E R

1. An Interlocutory Application bearing No.333189/2026 has been filed on behalf of the petitioner seeking impleadment of the alleged victim as Respondent No.3 in the present case. The same is allowed and the victim is impleaded as Respondent

Signature Not Verified
Digitally signed by ABHINAV KUMAR
Date: 2026.10.30 16:45:21 IST
Reason:

No.3 in the present case.

2. Issue notice, both on the Special Leave Petition as well as on the application seeking condonation of delay, returnable on 17.02.2027.

3. Mr. B. Karunakaran, learned counsel appears on advance notice and waives notice on behalf of the Respondent No.1.

4. In the meanwhile, there shall be stay of further proceedings in C.C. No.1032 of 2022 pending on the file of XVIII Metropolitan Magistrate/XVIII Judicial Magistrate, Saidapet, Chennai, Tamil Nadu.

(ABHINAV KUMAR)
COURT MASTER (SH)

(CHETNA BALOONI)
COURT MASTER (NSH)