

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

Crl.O.P.No.8157 of 2014
and
M.P.No.1 and 2 of 2014

P.R.KavithaPetitioner/Accused No.2)

vs.

1. The State, rep. by
Inspector of Police,
Karumalaikoodal Police Station,
Mettur Taluk, Salem District.
 2. Shanmugam
(R-2, impleaded as per order passed today,
in M.P.No.1 of 2015 of this Crl.O.P.)
- ...Respondents/
Complainant.

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for records relating to C.C.No.162 of 2011, on the file of Judicial Magistrate No.II, Mettur Dam, Salem District, and to quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.R.C.Paul Kanagaraj, for
Mr.W.M.Abdul Majeed

For Respondent-1 Mr.M.Maharaja
Additional Public Prosecutor

For Respondent-2: Mr. Shanmugam, appeared in person

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O R D E R

This Petition is filed to quash the proceedings initiated against the petitioner in C.C.No.162 of 2011, on the file of Judicial Magistrate No.II, Mettur Dam, Salem District.

2. It is submitted by the learned counsel appearing for petitioner that, though the chargesheet was filed against the petitioner and other accused for having committed the offence

punishable under Sections 341, 387 and 323 IPC, having regard to the nature of allegations made in the statements given by the witnesses during investigation, no offence punishable under Section 387 IPC has been made out, and according to the witnesses, only threat was exerted and a demand of Rs.5,00,000/- was made, and no amount was paid pursuant to the said threat, therefore, the chargesheet filed against the petitioner for offence under Section 387 is liable to be quashed. It is his further submission that in respect of other offences, viz. offence under Sections 341 and 323 are concerned, the de facto complainant entered into a compromise with the petitioner and has also filed joint affidavit to that effect and as the offences are compoundable in nature, the chargesheet filed against the petitioner in respect of offence under Sections 341 and 323 may also be quashed.

3. Heard the learned Additional Public Prosecutor for the respondent/Police and his submissions are that, as per the statements given by witnesses during investigation, the petitioner along with other accused, demanded Rs.5,00,000/-, failing which, he threatened that he would kill the de facto complainant and her uncle, and that news would also come in newspaper, and it is not the case of the prosecution that any amount was paid on the basis of the threat exerted by the petitioner and other accused, and therefore, offence under Sections 341 and 323 and Section 506 (ii) IPC are made out, therefore, the charges may be altered into offence under Sections 341, 323 and 506 (ii) IPC. As regards the compounding of case is concerned, the learned Additional Public Prosecutor submitted that the parties have really entered into compromise and that may be considered.

4. Heard both sides and I have gone through the statements of witnesses obtained during investigation. As rightly submitted by the learned Additional Public Prosecutor, having regard to the statements given by witnesses, offence punishable under Section 506 (ii) is clearly made out, and therefore, chargesheet is liable to be altered into offence under Sections 341, 323 and 506 (ii) IPC. It is submitted by the learned counsel appearing for petitioner that parties have entered into compromise and the second respondent/de facto complainant also filed joint affidavit to that effect.

5. Considering the fact that the second respondent is also present in Court, and he also admitted the filing of joint affidavit by him and also submitted that the case against the petitioner may be quashed, as he does not want to proceed against the petitioner, and the identity of the second respondent is also proved by production of his voter's Identity Card, and taking into consideration the joint affidavit filed by the second respondent along with the petitioner, and considering the nature of offences, which are only compoundable, and the parties also entered into compromise, I am inclined to quash the chargesheet filed against the petitioner.

6. In the result, Criminal Original Petition is allowed, and the chargesheet filed against the petitioner in C.C.No.162 of 2011, is quashed. Consequently, M.P.Nos.1 & 2 of 2014 are closed.

-s/d-

Assistant Registrar (CS-II)

Dt:12/3/2015

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate NO.II,
Mettur Dam, Salem.
 2. -do- thro' Chief Judicial Magistrate,
Salem.
 3. The Inspector of Police,
Karumalaikoodal Police Station,
Mettur Taluk, Salem District.
 4. The Public Prosecutor,
High Court, Madras.
- + 2 ccs to Mr.W.M.Abdul Majeed, Advocate SR 11329

rv(co)
prk12/3

CrI.O.P.No.8157 of 2014

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