

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.14755 of 2015

and MP.No.1 of 2015

Aquil Junaid

... Petitioner

Vs

1.State rep by
Inspector of Police,
E-2, Royapettah Police Station,
Chennai-14.

2.Mohammed Varish

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in SC.No.387 of 2014 on the file of II Additional City Civil Court at Chennai and quash the same.

For Petitioner : Mr.S.Y.Masood

For Respondents : Mr.C.Emalias,

Addl. Public Prosecutor [for R1]

: Mr.I.Subramaniam, Senior Counsel

for Mr.K.P.Ananthakrishnan [for R2]

O R D E R

This petition has been filed to quash the proceedings in SC.No.387 of 2014 on the file of the learned II Additional Judge, City Civil Court, Chennai.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the 1st respondent; learned counsel for the 2nd respondent and perused the materials placed on record.

3. On a complaint lodged by Mohammed Varish [de facto complainant/2nd respondent], the respondent police registered a case in E-2 Royapettah Police Station crime No.678 of 2013 on 31.08.2013 under Sections 341, 324, 506[ii] IPC against unnamed accused. After completing the investigation, the respondent police filed a Final Report against Aquil Junaid [petitioner/accused] for an offence under Section 341 and 307 IPC and now the case is

pending on the file of the learned II Additional Judge, City Civil Court, Chennai in SC.No.387 of 2014 for trial.

4. Initially the de facto complainant in his complaint, told the police that he was attacked by a person whom he can identify. But did not disclose the name of the person. When the de facto complainant was in the hospital taking treatment, a further statement was recorded from him, in which, he has stated that one Aquil Junaid was having an affair with the de facto complainant's wife, which was objected to by the de facto complainant and on account of this enmity, it was Aquil Junaid who had attacked him.

5. The de facto complainant further stated that he did not reveal Aquil Junaid's name at the first instance because, he felt embarrassed to tell the police that his wife was having an affair with Aquil Junaid. Now, it is seen that Mohammed Varish/de facto complainant and Aquil Junaid/accused have amicably settled all issues between them and they have also entered into a Memorandum of Understanding dated 28.07.2015 signed by both of them which has been submitted to this Court. In paragraph No.5 and 6 of the Memorandum of Understanding, it is stated as follows:

"5.That the first party would in lieu of the above co-operate with the second party to ensure in closing the criminal case pending on the second party filed by the police. The first party would help co-operate with second party in completing same by submitting appropriate affidavitsor/and to appear in court and mention the same as may be required.

6.That this MOU is being drawn with an intent of amicably settling of this issue between the parties and shall not be used by either parties for any other purposes."

6. The respondent police have filed a formal counter opposing the quashment of the prosecution.

7. Today, Mohammed Varish [de facto complainant] and Aquil Junaid [accused] are present before this Court and they had been identified by Mr.K.P.Ananthakrishna, Advocate and Mr.S.Y.Masood, Advocate respectively. Mohammed Varish submitted to this Court that he has no objection in the quashment of the prosecution, in view of the settlement that has been arrived at between the parties and that he would have also want to save the honour of his family.

8. In Narinder Singh and Others Vs State of Punjab and Another [2014] 6 SCC 466, the Hon'ble Supreme Court has clearly held that the High Court can quash the prosecution in an offence under Section 307 IPC, if it is satisfied that the chances of conviction are remote and bleak. In this case, Mohammed Varish [de facto complainant] himself has stated that he is not willing to further proceed with the prosecution. Under those circumstances, there are every possibilities of he turning hostile in the

prosecution case. Further, both the parties have mutually arrived at a settlement on account of the intervention of community members.

9. In view of the above, the prosecution in SC.No.387 of 2014 on the file of the learned II Additional Judge, City Civil Court, Chennai is quashed and this petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The II Additional Judge,
City Garment, Chennai.

2 Inspector of Police,
E-2, Royapettah Police Station,
Chennai-14.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Y. Masood, Advocate, sr.38692.

CRL.OP.No.14755 of 2015

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