

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.20319 of 2015  
and  
M.P.Nos.1 & 2 of 2015

1.M.Jayaraj  
2.Vasanthi  
3.Venkadesan  
4.Dhanasegaran  
5.Ganambal  
6.Munisamy

....Petitioners/Accused

Vs.

1. The Station House Officer,  
All Women Police Station,  
Vilianur,  
Pondicherry.

....Respondent/Complainant

2. Ramachandran

....Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Cr.P.C., praying to call for records relating to the impugned charge sheet in C.C.No.76 of 2015 on the file of the Hon'ble Chief Judicial Magistrate, Puducherry and quash the same as highly illegal and abuse of process of court.

For Petitioners : M/s.Achari & Antoni Associates

For Respondents : Mr.R.Thangavel  
Additional Public Prosecutor (Pondy)

O R D E R

This Criminal Original Petition has been filed praying to quash the the impugned charge sheet in C.C.No.76 of 2015 on the file of the learned Chief Judicial Magistrate, Puducherry.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Pondy) for the respondent.

3. Notice was served on the second respondent by the defacto-complainant, despite which, there is no appearance.

4. The victim in this case is one Priya and the defacto-complainant is her father Ramachandran. Priya is now aged about 32 years and it is her contention that she and Jayaraj (A1) were in love for quite some time and Jayaraj promised that he will marry her and on that promise, he had sex with her. Some time in the year 2011, when Jayaraj got employment as Lineman in the Electricity Department, his attitude towards Priya changed and that he started avoiding her. Priya lodged a complaint on 26.09.2012 to the Police and during Police enquiry, Jayaraj came to the Police Station with his sister Vasanthi (A2), Venkatesan (A3) (husband of Vasanthi) and Dhanasegaran (A4) (brother of Venkatesan) and assured that, they will have the marriage performed in the month of November 2012.

5. After giving this assurance, Jayaraj (A1) further went back upon it and again a complaint dated 03.02.2014 was lodged by the defacto-complainant and at that time also Jayaraj and his relatives came to the Police Station and assured that he will marry Priya on 17.02.2014 at Manakula Vinayagar Temple in Pondicherry. Accordingly, Priya and her family members were waiting on 17.02.2014 at the temple, but Jayaraj never turned back. Ultimately, Priya's father Ramachandran lodged a complaint on 07.03.2014, based on which a case in Crime No.2 of 2014 was registered and after completing the investigation, Police have filed a final report against Jayaraj (A1), Vasanthi (A2), Venkatesan (A3), Dhanasegaran (A4), Ganambal (A5) and Munisamy (A6) for the offences under Sections 417, 420, 509, 506 (i) r/w 34 I.P.C., before the Chief Judicial Magistrate, Pondicherry, challenging which the accused are before this Court.

6. The learned Special Public Prosecutor appearing for the State has submitted that there are sufficient materials for the prosecution to proceed against the accused, inasmuch as, all had agreed to have the marriage performed, but have gone back upon it.

7. Per contra, the learned counsel appearing for the petitioner submitted that except Jayaraj (A1), there are no materials against other accused for the alleged offences.

8. This Court gave its anxious consideration to the facts pertaining to this case and carefully perused the records. It is seen that Priya was about 28 years old when she was having an affair with Jayaraj, who was two years elder to her. Neither in the complaint, nor in the Police statement, there is any reference to the role played by A2 to A6, with regard to the act of abetment.

9. The learned Special Public Prosecutor submitted that Vasanthi (A2), Venkatesan (A3) and Dhanasegaran (A4 ) had come to the Police Station and had given an assurance that they will perform the marriage and since they had not kept up the assurance, they will be liable for the offence. Jeyaraj (A1) is a man of 32 years old and he could have easily walked out of his parental home for marrying Priya.

10. In the statement of the defacto-complainant, he has only stated that, he came to know that the other accused are preventing Jayaraj to marry his daughter. Apart from this statement, there is no other materials to show that, any of these accused were responsible for preventing Jayaraj from marrying Priya. It is an admitted fact that Vasanthi (A2), who is the sister of Jayaraj (A1) is married to Venkatesan (A3) and they are living separately. Similarly, Dhanasegaran (A4) is not the brother of Jayaraj (A1), but he is the brother of Venkatesan (A3) and the brother-in-law of Vasanthi (A2). None of the witnesses have stated anything about the involvement of A2 to A6 in the alleged offences.

11. In the result this petition is partly allowed. The proceedings against A2 to A6 is quashed. The Trial Court shall proceed against A1 as there are sufficient materials implicating him in the offence. Consequently, connected miscellaneous petition are closed.

Sd/-  
Assistant Registrar(J)

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सत्यमेव जयते

Sub Assistant Registrar

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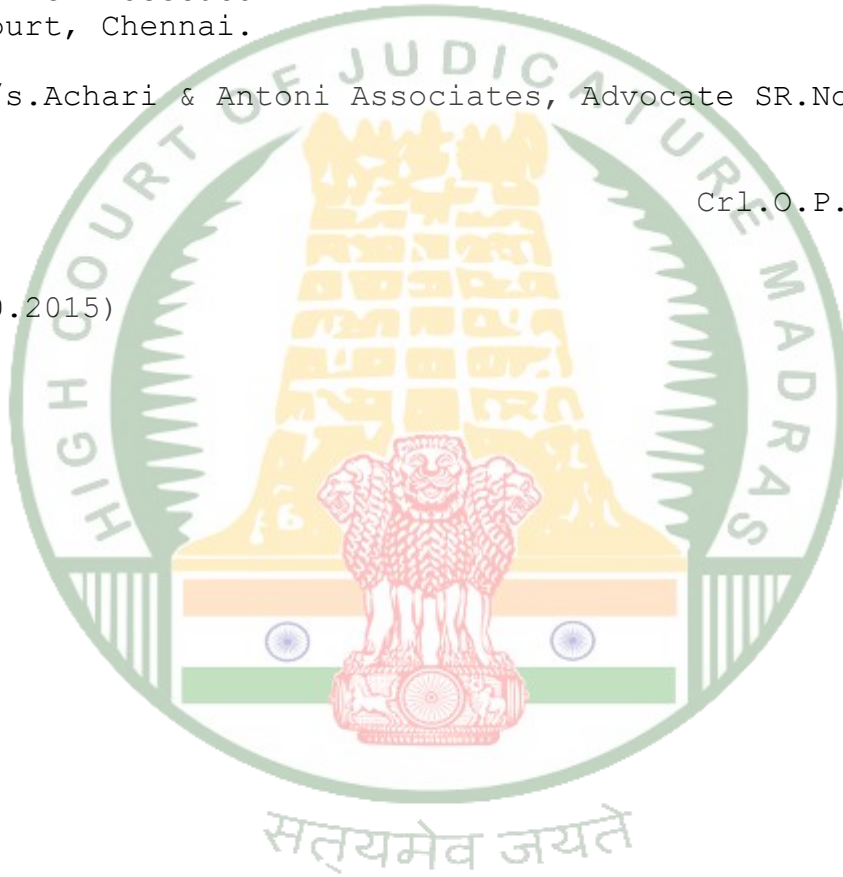
To

1. The Station House Officer,  
All Women Police Station,  
Vilianur,  
Pondicherry.
2. The Chief Judicial Magistrate,  
Pondicherry.
3. The Public Prosecutor  
High Court, Chennai.

1 CC to M/s.Achari & Antoni Associates, Advocate SR.No. 48613

Crl.O.P.No.20319 of 2015

CNR (CO)  
PSI (05.10.2015)



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