

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.04.2015

Coram:

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

Crl.O.P.No.5716 of 2010 and M.P.Nos.1 and 5 of 2010
Crl.O.P.No.8728 of 2015 and M.P.No.1 of 2010

1.V.Kugesh
2.K.Anitha

...Petitioners in Crl.O.P.No.5716 of 2010

1. V.Saisundar
2. V.Santhi
3. Kugesh
4. K.Anitha

...Petitioners in Crl.O.P.No.8728 of 2015

Vs.

1. State through Inspector of Police,
All Women police Station,
Ambattur, Chennai - 600 053

2. Santhoshimala ..Respondents in Crl.O.Nos.5716 of 2010
and 8728 of 2015.

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records from the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur District in C.C.No.82/09 on his file and quash the proceedings therein as against the petitioners herein.

For Petitioners : Mr.K.S.Rajagoplan

For Respondents : Mr.C.Emalias for R1
Additional Public Prosecutor R1
Ms.A.Arulmozhi for R2

C O M M O N O R D E R

Since the issue involved in both the petitions are one and the same, they are taken up together and a common order is passed.

2. Heard the learned counsel for the petitioner and learned counsel for the respondents and perused the materials available on record.

3. It is the case of the prosecution that V.Saisundar, 1st petitioner in CrI.O.P.No.8728 of 2015 got married to Santhoshimala, 2nd respondent. Their matrimonial life got into rough weather and they got estranged. Santhoshimala lodged a complaint before the 1st respondent police, based on which a case in Crime No.16 of 2008 for offences under Sections 498A, 406, 506 (ii) IPC and Section 109 IPC r/w Section 34 IPC and Section 4 of the TNPHW Act of 1998 and Section 4 and 6(2) of the Dowry Prohibition Act was registered by the 1st respondent police and investigation was taken up. After completing investigation, police filed final report, which was taken cognizance in C.C.No.82 of 2009 on the file of learned Judicial Magistrate No.II, Poonamallee.

4. Now, both the parties appear to have entered into compromise and they are seeking to quash the proceedings in C.C.No.82 of 2009. Santhoshimala, defacto complainant is present before this Court with her father. She has also filed an affidavit wherein in Paragraph Nos.5 and 6 she has stated as follows:-

".....5. I state that based on our voluntary decision to settle the issues the first petitioner had tendered the entire amount as per the order of the Family Court by way of two demand drafts. I received the same.

6. I state that as the offences in C.C.No.82 of 2009 in under Section 498 A IPC, Section 6(2) of the Dowry Prohibition Act and Section 4 of the TNPHW Act are under non-compoundable provisions, it is essential that the said C.C.No.82 of 2009 be quashed by this Hon'ble Court to giet a quietus to the criminal proceedings. Hence I, the defacto complainant filing this affidavit expressing my no objection to quash the said C.C.No.82 of 2009 pending on the file of the learned Judicial Magistrate No.I, Poonamallee and to record this affidavit as part and parcel of the order.

5. This Court enquired in the open Court to find out whether the defacto complainant/Santhoshimala has come voluntarily and this Court is satisfied from the answers given by her that she has come voluntarily to quash the prosecution.

6. Considering the fact that the defacto complainant has come voluntarily to quash the proceedings as against the petitioners in

both the petitions and relying upon the Judgment of the Hon'ble Supreme Court reported in 2012 (3) Crimes 167 (SC) (Jayrajsinh Digvijaysinh Rana v. Stat of Gujarat & Another the proceedings in C.C.No.82 of 2009 on the file of learned Judicial Magistrate No.I, Poonamallee, Thiruvallur District is quashed.

In the result, these petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ssd

To

1. State through Inspector of Police,
All Women police Station,
Ambattur, Chennai - 600 053

2. The Judicial Magistrate No.1
Poonamallee, Thiruvallur District

3. The Public Prosecutor,
High court, Madras.

1 cc to Mr.A. Arunmozhi, Advocate, Sr. 20880

1 cc to Mr.K.S. Rajagopalan, Advocate, sr. 20815

Cr1.O.P.No.5716 of 2010 and
M.P.Nos.1 and 5 of 2010
Cr1.O.P.No.8728 of 2015 and
M.P.No.1 of 2010

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