

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.21522 of 2013
and MP.No.1 of 2013

N.Sasikala ... Petitioner/ Defacto Complainant

Vs

1.The State rep by
Sub-Inspector of Police,
All Women Police Station,
Ooty Town. ...1st Respondent/ Complainant

2.V.R.Aravindan
3.M.Venkataraman
4.Rajamani
5.Lingammal
6.Prathi
7.Sathish Kumar ... Respondents 2 to 7/ Accused

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to set aside the order dated 30.05.2013 made in
Crl.MP.No.1437 of 2013 in CC.No.126 of 2011 on the file of the
Judicial Magistrate Court, Ootacamund and allow the Criminal
Original Petition.

For Petitioner : Mr.C.Prabakaran

For Respondents:Mr.C.Emalias,Addl. Public Prosecutor
[for R1]
Mrs.Jayasri Baskar [for R2 to R6]

O R D E R

This petition has been filed to set aside the order of the
learned Judicial Magistrate Court, Ootacamund in Crl.MP.No.1437 of
2013 dated 30.05.2013.

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

3. The facts of the case makes a very interesting reading. The
petitioner who is the de facto complainant and the 1st accused are
working in the Police Department. It appears that the 1st accused
had promised to marry the 1st petitioner and thereafter, he reneged.

On the complaint lodged by the petitioner, the respondent police registered a case in Crime No.1 of 2011 and after completing the investigation, filed a Final Report in CC.No.126 of 2011 for offences under Section 417, 493, 506[i] IPC, Section 4 of Dowry Prohibition Act and Section 4 of TNPHW Act before the learned Judicial Magistrate, Ootacamund.

4. The case was taken on file and after issue of process to the accused, the accused appeared before the Trial Court. On appearance of the accused, the following charges were framed against A1 in this case, namely, Section 417, 493, 506[i] IPC, Section 4 of Dowry Prohibition Act and Section 4 of TNPHW Act. The case was posted to 09.07.2012 for examination of prosecution witnesses. On 09.07.2012, the petitioner/de facto complainant and the accused appeared before the Court and they filed an application under Section 320 Cr.P.C. on the ground that the matters have been amicably settled.

5. It may be relevant to extract the petition in CrI.MP.No.4045 of 2012 in CC.No.126 of 2011 filed under Section 320 Cr.P.C.

"PETITION UNDER SECTION 320 OF Cr.P.C.

1. The petitioners/accused herein have been charged for alleged offences under sections 420, 493 and Sec 506 [ii] of IPC and section 4 of TNPHW Act, and section 4 of Dowry Prohibition Act.
2. The 1st petitioner/accused and the Defacto Complainant in the above case are working in the police department due to the intervention of the elders and well wishers they have settled the subject matter of the above case out of court amicably.
3. The petitioners/accused state that unless this Hon'ble Court records that compromise of the Petitioners/Accused and the defacto complainant herein they will be put to great loss and irreparable injury.
4. It is therefore prayed that this Hon'ble Court may be pleased to record the compromise of the petitioners/Accused and the defacto complainant and acquit the accused and pass such and other orders as this Hon'ble Court may deem fit to grant in the circumstances of the case and thus render justice.

Ootacamund
09.07.2012

Sd/- xxx Sd/- xxx
Defacto Complainant Advocate for the Petitioners/
Accused "

[extracted verbatim]

6. In view of the petition filed, the Trial Court passed the following order:

"Petition is filed u/s 320 Cr.P.C. to seek permission of this court to compromise the offence the alleged offences U/s 417 IPC alone compoundable in Nature. The other offence U/s 493, 506[i] IPC Section 4 of D.P.Act and Section 4 of TNPHW Act are non compoundable

in nature.

Hence this petition is partly allowed with regard to U/s 417 IPC alone U/s 493, 506[i] IPC Section 4 of D.P.Act and Section 4 of TNPHW Act this petition is dismissed.
Sd/- xxxx Judicial Magistrate, Udhagamandalam 9.7.2012."

[extracted verbatim]

7. On the same day, i.e., on 09.07.2012, the petitioner/de facto complainant got into the witness box and turned hostile to the prosecution case. While so, before the Judgment in the case could be delivered, the Public Prosecutor filed an application under Section 311 Cr.P.C to recall the petitioner/de facto complainant for further examination. The petition filed by the Public Prosecutor in Crl.MP.No.1437 of 2013 in CC.No.126 of 2011 does not even state the reasons for recalling PW1 [petitioner/de facto complainant]. The accused filed a strong counter objecting to it, on the ground that the de facto complainant had earlier turned hostile to the prosecution case and that the present attempt is only a means to harass the accused. The Trial Court dismissed the petition on 30.05.2013, challenging which, the de facto complainant is before this Court.

8. Mr.Prabakaran, learned counsel appearing for the petitioner submitted that though the de facto complainant and the accused had filed the petition under Section 320 Cr.P.C and though the de facto complainant turned hostile to the prosecution case, yet the entire compromise was arrived at between the parties on the ground that the accused would reunite with the de facto complainant. But, after the accused was reinstated into service, he had gone back upon his word and therefore, it became imperative for the de facto complainant to press for the trial of the case.

9. Though Mr.Prabakaran's submission appears to be reasonable, yet the fact remains that the petition that was filed under Section 320 Cr.P.C does not reveal those facts. Further, the de facto complainant had turned hostile in respect of other non-compoundable offences and her evidence became final.

10. Therefore, at later point of time, if the accused had gone back upon a commitment which has not been mentioned in the application under Section 320 Cr.P.C, the Court cannot reopen the case, however genuine the request may sound, for. Courts are required to administer justice only in accordance with law and not on sentiments and emotions. Therefore, however blame worthy the conduct of the accused is, that cannot be a reason to reopen a case in violation of law.

11. In the result, the petition is devoid of merits and dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gya

To

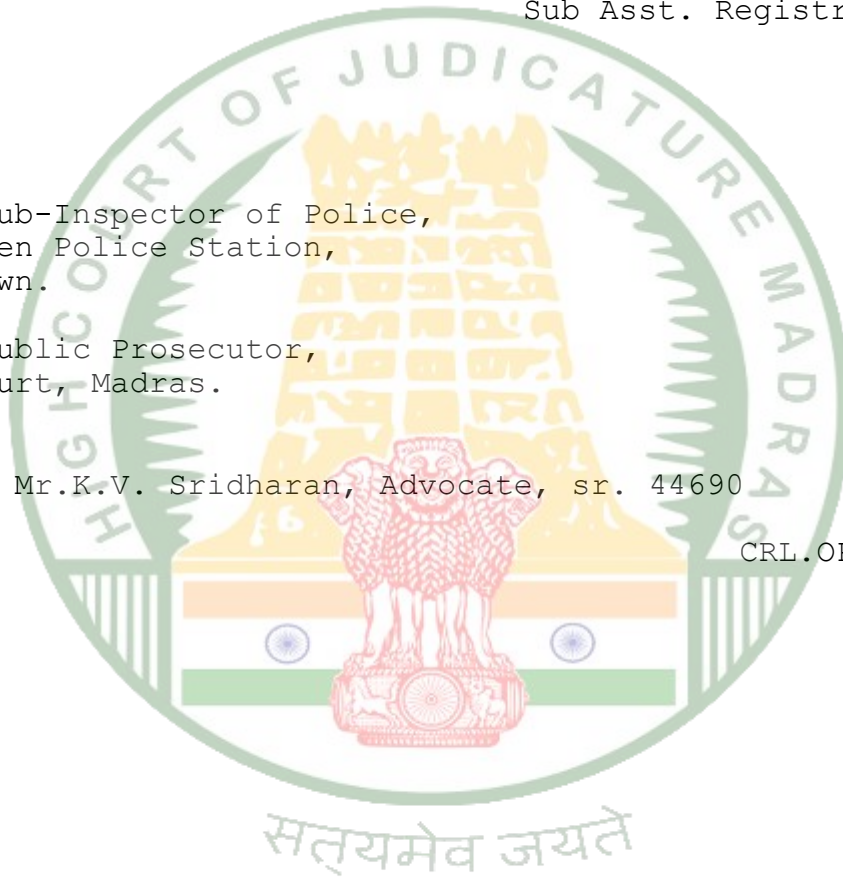
1.The Sub-Inspector of Police,
All Women Police Station,
Ooty Town.

2.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.K.V. Sridharan, Advocate, sr. 44690

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SV (CO)
kk 8/9



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