

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM:

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

Crl.O.P. No.14022 of 2016 & Crl.M.P. Nos.7155 & 7156 of 2016

1 J. Selvakumar
2 C. Jayaraj
3 Malar @ Malarvizhi Petitioners/Accused(A1, A2 &A3)

Vs.

1 State represented by
the Inspector of Police
W28 All Women Police Station
Ambattur
Chennai - 600 053
2 S. Devi Respondents/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records of the Judicial Magistrate, Ambattur at Chennai in connection with C.C. No.292 of 2014 and quash the same.

For petitioners Mr. S. Ilamvaludhi

For R1 Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records in connection with C.C. No.292 of 2014 on the file of the Judicial Magistrate Court, Ambattur at Chennai and quash the same.

2 For the sake of convenience, the parties will be referred to by their name.

3 It is seen that Devi got married to Selvakumar on 26.02.2007 and thereafter, their marriage ran into rough weather. Devi lodged a complaint based on which the first respondent police registered a case in Crime No.3 of 2013 and after completing the investigation, has filed a final report in C.C. No.292 of 2014 before the Judicial Magistrate Court, Ambattur, Chennai against Selvakumar (A1), C. Jayaraj (A2) and Malar @ Malarvizhi (A3) for offences under Section 498-A and 406 IPC. During pendency of this prosecution, it appears that H.M.O.P. No.176 of 2015 has been filed by Devi before the

Family Court, Tirunelveli, seeking divorce and Selvakumar has filed an application under Section 13-B of the Hindu Marriage Act and by judgment and decree dated 23.12.2015, their marriage has been dissolved. It is seen that the decree of divorce has been granted on condition that Devi had agreed to withdraw C.C.No.292 of 2014, pending on the file of the Judicial Magistrate Court, Ambattur at Chennai. Even in the decree passed by the Family Court, Tirunelveli, it is clearly stated so.

4 Under such circumstances, Selvakumar and the other two accused are before this Court for quashing the prosecution in C.C. No.292 of 2014.

5 Notice was ordered to Devi on 05.07.2016 and she had refused to receive the same. While so, on 20.07.2016, this Court passed the following order:

"On 05.07.2016, this Court had directed the petitioners to serve private notice on the second respondent and this Court also had directed the first respondent-police to produce the second respondent. Today, Ms. Eswari, WPC 31845, W-28, AWPS, Ambattur, Chennai, is present.

2 Learned Addl. Public Prosecutor, on instructions submitted that the police contacted 2nd respondent and she informed that she does not have financial means to come to Chennai.

3 Mr. S. Ilamvaludhi, learned counsel for the petitioners submitted that they are ready to pay Rs.10,000/- to the second respondent towards expenses.

4 Recording the same, the respondent police is directed to inform the second respondent and produce her before this Court on 09.08.2016.

Post on 09.08.2016."

6 Today, Ms. C. Umadevi, WPC 32917, W-28, All Women Police Station, Ambattur, is present and on instructions, the learned Additional Public Prosecutor submitted that Devi was informed of the orders passed by this Court and also, the undertaking given by Selvakumar that he would pay her Rs.10,000/- towards travel expenses and stay in Chennai, despite which, she has not appeared before this Court. The learned Additional Public Prosecutor further submitted that the marriage between Devi and Selvakumar has been dissolved in terms of the decree in H.M.O.P. No.176 of 2015 passed by the Family Court, Tirunelveli on 23.12.2015, wherein, Devi has

categorically agreed that she would withdraw the prosecution in C.C. No.292 of 2014.

7 Under such circumstances, further continuation of the prosecution in C.C. No.292 of 2014 is a clear abuse of process of law. Accordingly, the prosecution in C.C. No.292 of 2014 on the file of the Judicial Magistrate Court, Ambattur, is quashed.

Resultantly, this Criminal Original Petition stands allowed. Connected CrI.M.Ps. are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Inspector of Police
W-28 All Women Police Station
Ambattur
Chennai - 600 053
- 2 The Judicial Magistrate
Ambattur
Chennai
- 3 The Public Prosecutor
Madras High Court
Chennai 600 104

+ 1 cc to M/s. S. Ilamvaludhi, Advocate SR.45415

CrI. O.P.No. 14022 of 2016

ALA(CO)
EU 26.08.16

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