

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.19504 of 2016

1.B.Anand Kumar
2.Rani Ammal
3.S.Babu Reddiar ... Petitioners/A1 to A3

Vs

1.State by
The Inspector of Police, ... Respondent 1 / Dejure
Complainant
W-28, All Women Police Station,
Ambattur, Chennai - 600 053.

2.N.C.Mageshwari ... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the proceedings in C.C.No.170 of 2014, now pending on the file of the learned Judicial Magistrate, Ambattur and quash the same.

For Petitioners :Mr.K.Shankar
For Respondents :Mr.C.Emalias, [for R1]
Additional Public Prosecutor
Mr.T.K.Ashok Kumar [for R2]

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.170 of 2014, now pending on the file of the learned Judicial Magistrate, Ambattur.

2. Heard Mr.K.Shankar, learned counsel appearing for the petitioners and Mr.C.Emalias, learned Additional Public Prosecutor appearing for the first respondent and Mr.T.K.Ashok Kumar, learned counsel for the second respondent.

3. On the complaint lodged by Maheswari (2nd respondent/de facto complainant), the respondent-Police registered a case in CC.No.170 of 2014 before the Judicial Magistrate, Ambattur,

against Anand Kumar (A1), Rani Ammal (A2) and Babu Reddiar (A3) for the offences under Sections 498(A), 406, 506(ii) IPC, 4/w Section 4 of the Dowry Prohibition Act, challenging which, the accused are before this Court on the ground that they have entered into a compromise.

4. Today, Maheswari, the second respondent/ de facto complainant is present and she is identified by her Advocate Mr.T.K.Ashok Kumar [Enrl.No.1870/1999]. Anand Kumar (A1), the petitioner herein is also present. Maheswari has filed an affidavit wherein in Paragraph Nos.5 to 10, it is stated as follows :

" 5. I state that soon after the marriage owing to differences in temperament, habits, tastes, thoughts and increasing incompatibilities, the relationship between myself and my husband had deteriorated. I state that due to which frequent quarrels resulted and several reconciliations tried unsuccessfully which didn't last long. I state that I had given a criminal complaint before All Women Police Station, Ambattur, resulting in a criminal case in Cr.No.9/2013 and now pending in C.C.No.170 of 2014, under section 498A, 406, 506(ii) I.P.C. read with 4 of DP Act before the learned Judicial Magistrate, Ambattur, the subject matter of this criminal quash petition. I state that I had also filed a petition for divorce now pending adjudication in H.M.O.P.No.9 of 2015, before the learned Sub Ordinate Court, Poonamallee and interim maintenance petition in I.A.No.156 of 2015 before the same court.

6. I state that at the intervention, advise of elders and well-wishers of both the families, both of us; myself and my husband after having given it a deep thought has decided to put aside our differences and had agreed to settle the issue amicably to avoid further deterioration in relationship which might affect the other immediate relations on both sides as well. It is therefore decided by us to file a mutual consent

divorce and part ways without any further animosity.

7. I state that I have out of our own free will and accord had separated finally on 19.10.2013 never to return to each other in future.

8. I state that all efforts, attempts that were made by mutual friends, relatives, acquaintances to effect reconciliation and for resumption of marital relationship, had failed owing to total incompatibility; which gave rise to invincible repugnance, rendered normal married life impracticable and impossible. I further feels that any further continuation in the marital chord would be fraught with dangerous adverse physical and mental consequences.

9. I state that I had separated and had been living apart for the past 2 years and the duration of cohabitation prior thereto was not in any case for much more than a year. In the circumstances myself and the 1st petitioner have mutually agreed and decided that there is no point for the continuation of the marital relationship and have further agreed upon to dissolution of the marriage tie by a decree of divorce. I state that the 1st petitioner had agreed to pay a sum of Rs.4,50,000/- (four lakhs fifty thousand only) as full and final settlement to me and the petitioner had agreed to return each other's properties vide a Memorandum of Understanding. I state that myself and 1st petitioner had agreed that no further or future, pecuniary or legal claims shall be entertained herein after in this regard against each other. I state that myself and 1st petitioner had filed a mutual consent divorce petition No. H.M.O.P.No.269 of 2016 filed on 29.04.2016 now pending before the Sub-Court, Poonamallee and is posted to 8.11.2016 for further proceedings.

10. I state that in the aforesaid circumstances it is therefore desirable and necessary that the criminal case in Cr.No.9/2013 and now pending in C.C.No.170 of 2014, under section 498A, 406, 506(ii) IPC read with 4 of DP Act before the learned Judicial Magistrate, Ambattur, may be quashed."

5. In view of the above, the petition is allowed and the prosecution in C.C.No.170 of 2014 pending on the file of the Judicial Magistrate, Ambattur, is hereby quashed as against all the accused.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ds

To

1. The Judicial Magistrate Court,
Ambattur.

2.The Inspector of Police,
W-28, All Women Police Station,
Ambattur, Chennai - 600 053.

3.The Public Prosecutor,
High Court, Chennai. सत्यमेव जयते

+1 CC to Mr. T.K. Ashok Kumar, Advocate Sr.No.49935

+4 CC to Mr. K. Shankar, Advocate Sr.No.49754

Cr1.OP.No.19504 of 2016

PUR (CO)

MD : 19/09/2016