

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM

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

CrI.O.P. No.21072 of 2016

and CrI.M.P.Nos.9762 and 9763 of 2016

L.Varalakshmi

Petitioner/Accused No.5

vs.

1.State rep by
Inspector of Police
Central Crime Branch
Team-3, Egmore
Chennai 600 008.

1st Respondent/Complainant

2.R.Sheik Shubani

Respondents/Defecto Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the entire records pertaining to the charge sheet in C.C.No.5600/2011 on the file of the Hon'ble XI Metropolitan Magistrate, Saidapet, Chennai and quash the same in respect of the petitioner herein.

For petitioner
For Respondents

Dr.G.Krishnamurthy
Mr. C. Emalias

Additional Public Prosecutor, for R1

सत्यमेव जयते

ORDER

This Criminal Original Petition has been filed to call for the entire records pertaining to the charge sheet in C.C.No.5600/2011 on the file of the Hon'ble XI Metropolitan Magistrate, Saidapet, Chennai and quash the same in respect of the petitioner herein.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. On the complaint lodged by one Sheik Shubani, the respondent police registered a case in Cr.No.603 of 2010 and after completing the investigation, has filed a Final Report in C.C.No.5600 of 2011 before the XI Metropolitan Magistrate, Saidapet, for offences u/s 406 and 420 IPC, for quashing which Varalakshmi [A5] has approached this Court, on the ground that earlier this Court in Crl.O.P.No.6358 of 2012, had quashed the prosecution as against Syed Ali Fathima [A1] and Peer Mohammed [A2], since the parties had amicably settled with the de facto complainant.

4. In the order dated 11.06.2012, in Crl.O.P.No.6358 of 2012, this Court has recorded as follows:

"3. The second respondent is present and he is represented by Mr.M.Lakshmipathy, learned counsel. The second respondent has filed an affidavit dated 30.03.2012, wherein, in paragraph Nos.3 to 5 he has stated as follows:-

"3. I submit that the first respondent had registered a case in Cr.No.603/2010 and now had laid the final report before the learned XI Metropolitan Magistrate, Saidapet, Chennai and the same is pending in C.C.No.5600/2011. I submit that due to the passage of time and also due to the fact that the dispute is pertaining to a property which is civil in nature and personal dispute, I had negotiated with the petitioners in the above criminal original petition and the other accused and accordingly compromise was arrived between me and the petitioners and the other accused. I further submit that in pursuant to the said compromise arrived between us, the dispute between me and the petitioners and the other accused has been amicably settled and all differences have been sorted out.

4.I submit that in pursuant to the compromise I had received a sum of Rs.3,50,000/- as full and final settlement amount in respect of all our dispute from the petitioners in the above criminal original petition. I further

submits that in pursuant to the

compromise, I have decided on my free will to drop the prosecution of the above case in C.C.No.5600/2011, which is now pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai.

5.I submit that since the matter has been amicably settled, and I have decided not to proceed with the above criminal case in C.C.No.5600/2011, which is now pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai. I do not have any objection in this Hon'ble Court quashing the proceedings of the above said criminal case in C.C.No.5600/2011. Which is now pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and I am fling this affidavit to that effect."

4.In view of the affidavit filed by the second respondent and in view of the compromise reached between the parties, I am of the view that it would be in the interest of justice to quash the proceedings as per the law laid down by the Hon'ble Supreme Court in B.S.Joshi and others v. State of Haryana and another, 2003 Supreme Court Cases (Cr1) 848 and which was followed by this Court in V.Sekar & Others v. State by Inspector of Police, Central Crime Branch & Another (CDJ 2012 MHC 841).

5.In view of all the above, the case in in C.C.No.5600 of 2011 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai is quashed and the Criminal Original Petition is allowed."

5. Learned Additional Public Prosecutor submitted that the petitioner was working as Assistant in the Office of the Sub-Registrar and she had given computerised Encumbrance Certificate to Syed Ali Fathima [A1] and Peer Mohammed [A2] which did not disclose the factum of mortgage deed, on account of which, A1 and A2 had benefitted.

6. On consideration of the facts and circumstances of the

case, when this Court has quashed the prosecution as against A1 and A2 on the ground that the matter has been amicably settled, it will be a travesty of justice, if the prosecution as against this petitioner is to continue. It is also seen that the co-accused in this case, namely A4 and A6 have died. Under such circumstances, no useful purpose would be served, if the prosecution against this petitioner proceeds.

In the result, this petition is allowed and the entire prosecution in C.C.No.5600 of 2011 pending on the file of the XI Metropolitan Magistrate, Saidapet, Chennai is quashed not only against this accused, but also against the other accused, who have not approached this Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

gms

To

1. Inspector of Police
Central Crime Branch
Team-3, Egmore
Chennai 600 008.

2. XI Metropolitan Magistrate,
Saidapet, Chennai.

3. The Public Prosecutor
High Court, Madras.

+1 CC to Dr. G. Krishnamoorthy, Advocate Sr.No.56622

CrI.O.P. No.21072 of 2016

GJII (CO)
MD : 20/10/2016