

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.25294 of 2016

1. Dr.M.Mervin Leo
2. Mr.Kumar @ Kosakumar @ Chandiran ...Petitioners/
Accused No.1&2

Vs.

1. State represented through
The Inspector of Police
Bahour Circle, Kirumampakkam,
Puducherry.
2. Dr.Vinod ... Respondents/ Complainant &
Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C to call for the records in C.C.No.36 of 2013 on the file of the Judicial Magistrate-I, Puducherry and quash the same.

For Petitioners : Mr.Praveen Alexander

For R1 : Mr.Thangavel
Additional Public Prosecutor
(Pondicherry)

O R D E R

This criminal original petition has been filed to call for the records in C.C.No.36 of 2013 on the file of the Judicial Magistrate Court No.I, Puducherry and quash the same.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the 1st respondent.

3. On the complaint lodged by Vinod, the second respondent, the first respondent police registered case in Crime No.45 of 2013 on 20.04.2013 and after completing the investigation filed the final report in PRC.No.17 of 2016 before the Judicial Magistrate No.4, Puducherry under Section 392 IPC against one Dr.M.Mervin Leo and Kumar for quashing which, the petitioners are before this Court on the ground that they have arrived at a compromise.

4. It is the case of the prosecution that one Vinod and Mervin Leo were doing M.B.B.S and hostelites in Arupadaiveedu Medical College and Hospital, Pondicherry with one Rajasekar, who committed suicide in the hostel after consuming some heavy drugs. The Police handed over the body of Rajasekar to his parents in Andhra Pradesh. Thereafter, Mervin Leo started blackmailing Vinod by saying that Tamil Nadu Police are likely to arrest him for the death of Rajasekar and had extracted money from him. It is also alleged that Mervin Leo and other accused abducted Vinod and assaulted him and took away gold chain and watch worth Rs.7,000/- and other materials.

5. The learned counsel for the petitioners submitted that both Mervin Leo and Vinod have arrived at a compromise and submitted that the prosecution would be a futile exercise. He also filed a letter purported to have been given by Vinod.

6. This Court gave its anxious consideration to the rival submissions.

7. Even in *Gian Singh -Vs- State of Punjab & Others* [(2012) 10 SCC 303] the Supreme Court cautioned High Court as follows :

"However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc., cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society."

8. In the considered opinion of this Court, the facts obtaining in this case fall within the parameters of the law laid down by the Supreme Court in the aforesaid judgment given, the manner in which the accused have threatened the de-facto complainant and extracted money from him. Therefore, this is not a fit case to quash the prosecution, just because the accused and the de-facto complainant have arrived at a compromise.

9. The Judicial Magistrate No.5, Puducherry is directed to commit the proceedings within a period of two months provided, after the case is committed to the Sessions Court, liberty is given to the petitioner to file an application for expeditious disposal. If the accused abscond, a fresh FIR can be directed to be registered against them under Section 229-A IPC.

With the above direction, this petition is dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Judicial Magistrate I,
Puducherry.

2. The Inspector of Police
Bahour Circle, Kirumampakkam,
Puducherry

3. The Public Prosecutor,
High Court, Madras.

+1 cc to Praveen Alexander, advocate,sr.66784

+1 cc to Govt.Pleader,sr.675533.

nr(co)
krd 7/12

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