

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRIMINAL O.P.Nos.6533 of 2016 and 11895 of 2015
and

M.P.Nos. 1 and 2 of 2015 in CrI.O.P.No.11895 of 2015

CrI.O.P.No.6533 of 2016

G.Vijayan

...Petitioner/1st Respondent

Vs.

Sumathi

...Respondent/Defacto Complainant

CrI.O.P.No.11895 of 2015

1.Bhuvaneswari

2.Gopal

...Petitioners/Respondents 2&3

Vs.

Sumathi

...Respondent/Petitioner

Criminal Original Petition No.6533 of 2016 filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.4 of 2015 on the file of the V Metropolitan Magistrate Court, Egmore and quash the same.

Criminal Original Petition No.11895 of 2015 is filed under Section 482 Cr.P.C. praying to call for the records pertaining to the proceedings in C.C.No.4 of 2015 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

Mr.A.Thiyagarajan : For petitioners in both the above Criminal OPs.

Mr.V.R.Appaswamee : For respondent in both the above Criminal OPs.

O R D E R

Criminal Original Petition No.6533 of 2016 has been filed by the petitioner who is none other than the husband of the respondent, to quash the criminal proceedings in C.C.No.4 of 2015 pending on the file of the V Metropolitan Magistrate, Egmore, Chennai.

2. The other Criminal Original Petition viz., CrI.O.P.No.11895 of 2015 has been filed by the petitioners who are the accused 2 and 3 in the case in C.C.No.4 of 2005 pending on the file of the V Metropolitan Magistrate, Egmore, to quash the very same criminal case viz., C.C.No.4 of 2015.

3. With both the Criminal Original Petitions have been filed seeking to quash the criminal case in C.C.No.4 of 2015 pending on the file of the V Metropolitan Magistrate, Egmore, both the petitions are consolidated and disposed of together by this common order.

4. When the matters are taken up for hearing today, Mr.A.Thiyagarajan, learned counsel appearing for the petitioners has submitted that the dispute between the petitioners and the respondent in both the petitions has been amicably settled at the intervention of the well wishers and the elderly people of their family.

5. It is also submitted that the second respondent being the complainant has also filed her affidavit expressing "no objection" to quash the criminal case in C.C.No.4 of 2015 pending on the file of the V Metropolitan Magistrate, Egmore.

6. In this connection, Mr.V.R.Appaswamee, learned counsel appearing for the respondent has submitted that the memorandum of compromise has also been filed so as to enable the Court to dispose of the matters as settled out of Court.

7. In the memo of compromise, the first petitioner in CrI.O.P.No.6533 of 2016 as well as the respondent in the aforesaid both the petitions have stated that their marriage was solemnised on 8.6.2012 at Sri Varalakshmi Ramachandran Thirumana Mahal, Sevoor, Arani Taluk. On account of difference developed between them, feud has grown to an extent of filing complaints and cases before various forums. It appears that both the parties are living separately from August 2013 to avoid further friction.

8. It is seen from the records that the petitioner in CrI.O.P.No.6533 of 2016 being the husband has filed a petition in O.P.No.1402 of 2014 under section 13 (1)(i)(a) of the Hindu Marriage Act, 1955 on the file of the Family Court, Chennai, for divorce.

9. The respondent being the wife has also filed another petition in O.P.No.742 of 2014 under section 9 of the Act for restitution of conjugal rights before the same Court.

10. Besides this, the respondent being the wife had also lodged a complaint under the Domestic Violence Act against her husband, his mother and his father. That complaint was taken on file in C.C.No.4 of 2015 by the learned V Metropolitan Magistrate, Egmore, Chennai.

11. Now, for the purpose of giving quietus to the litigation, the parties have come forward to settle the issues with the concurrence of the mediators and well wishers of the family on the following terms:-

(i) The first and second party have decided to obtain divorce by mutual consent. The first party/husband has agreed to pay Rs.11,00,000/- (Rupees eleven lakhs only) by way of Demand draft towards permanent alimony as full quit of settlement by two instalments.

(ii) Whereas, the first party had given the Demand Draft bearing No.200220 drawn on ICICI Bank, Arani Branch, for about Rs.5,50,000/- to the 2nd party on 15.3.2016 and both parties have filed a consent divorce petition. Both of them agreed to withdraw the O.P.No.742 of 2014 and O.P.No.1402 of 2014 pending on the file of the Principal Family Court, Chennai.

(iii) Whereas the remaining amount of Rs.5,50,000/- shall be paid at the time of recording evidence in consent petition. This express waiver to claim includes all her claims in past, present and future in respect of alimony, maintenance and any other demand whatsoever.

(iv) The second party had filed a criminal case under Domestic Violence Act against the first party, his mother Bhuvaneswari and his father Gopal. The complaint was taken on file in C.C.No.4 of 2015 by the learned V Metropolitan Magistrate, Egmore. Both the parties have decided to file a petition before the Hon'ble High Court, Chennai under Section 482 Cr.P.C. to quash the entire proceedings in C.C.No.4 of 2015, which is still pending before the learned V Metropolitan Magistrate, Egmore. The second party has hereby agreed to co-operate by personally appearing before the Hon'ble High Court and give consent to quash

the C.C.No.4 of 2015 pending on the file of learned V Metropolitan Magistrate, Egmore, for complete the criminal proceedings and to relieve the first party and his parents of the said criminal case.

(v) The parties had mutually agreed via media to settle the issue by withdrawing the above mentioned pending proceedings against the first party and his parents respectively and filing the Memo of Compromise before this Court (High Court), Chennai, to quash the C.S.No.4 of 2015 by compounding the offences since the matrimonial relationship as husband and wife had come to an end by filing a consent divorce petition.

(vi) Both parties have exchanged the articles belonging to each other and the parties shall have no further claim against each other or his family or in any other aspects.

(vii) Both the parties and his parents hereby expressly give an undertaking that they will not take any civil or criminal action against each other or other family members in person or property and the second party or his family members will not interfere against the first party or against his parents in any nature in future and not make any claim or demand whatsoever. There is no claim against each other in future related to this marital relationship.

(viii) After the grant of divorce, both parties agree that they will not interfere into the personal life of the other in any manner whatsoever.

(xi) Both parties give an undertaking that there is no coercion, threat or undue influence in arriving at this memo of understanding. No other similar case is pending against both the parties in any other Court of law.

12. The petitioner in CrI.O.P.No.6533 of 2016 and respondent being the wife have appeared physically in person. On enquiry, they have categorically submitted that they have settled their dispute amicably out of Court and the respondent

who is the complainant as well as the wife of the petitioner Mr.G.Vijayan has also submitted that she has no objection to quash the criminal proceedings in terms of the memo of compromise.

13. Keeping in view of the above fact and on considering the fact that the parties have entered into compromise and the terms of compromise have also been reduced into writing, this Court is of the view that in the interest of justice, the criminal case in C.C.No.4 of 2015 shall be quashed.

14. Accordingly, the criminal case in C.C.No.4 of 2015 on the file of the V Metropolitan Magistrate, Egmore, Chennai, is quashed. Both the Criminal Original Petitions are disposed of. The memo of compromise dated 21.3.2016 jointly filed by the parties shall form part of this order. The connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

asvm

To

- 1.The V Metropolitan Magistrate,
Egmore, Chennai.
2. The Chief Metropolitan Magistrate, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.A. Thiyagarajan, Advocate, S.R.No.18444
+2ccs to Mr.V.R. Appaswamee, Advocate, S.R.No.18688

VGI(CO)
EU(11/04/2016)

CRIMINAL O.P.Nos.6533 of 2016
and 11895 of 2015
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M.P.Nos. 1 and 2 of 2015 in
Crl.O.P.No.11895 of 2015