



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA**Cr1.O.P. (MD) No.16149 of 2014**

1. Kalil Rahman
2. Thajudeen
3. T.Faritha Beevi
4. S.Sabeera Banu
5. S.Anis Fathima
6. T.Ali Sulthan
7. K.Shaiba
8. Alitha Banu
9. Mousuriya Banu
10. J.Ummual Asina
11. S.Sahubar Ali

... Petitioners

-VS-

1. State rep. by
The Inspector of Police,
All Women Police Station,
Thiruvadanai,
Ramanathapuram District.

... 1st Respondent/Complainant

2. K.Saibunisha

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the Charge Sheet in C.C.No.105 of 2014 on the file of the District Munsif-cum-Judicial Magistrate, Thiruvadanai and quash the same.

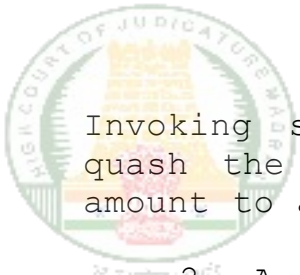
For Petitioners : Mr.V.Panneer Selvam

For R1 : Mr.P.Kandasamy
Govt. Advocate (Cr1.Side)

For R2 : Mr.S.M.A.Jinnah

O R D E R

Section 482 Cr.P.C., saves inherent power of the Court. Such inherent power can be exercised either to prevent the abuse of the process of the Court or otherwise to secure the ends of justice.



Invoking such inherent power, this petition has been filed to quash the proceedings on the ground that the continuance would amount to abuse of the process of the Court.

2. A case in Crime No.4 of 2014 has been registered under **Section 498(A) IPC, Section 4 of D.P.Act and Section 4 of TNPWH Act, 2002** by the 1st respondent against the petitioners. After completion of the investigation, the Investigating Officer has filed a charge sheet before the learned District Munsif-cum-Judicial Magistrate, Thiruvadanai, which was taken cognizance by the Court in C.C.No.105 of 2014.

3. Alleging dowry harassment in the matrimonial home, a complaint has been preferred by the defacto complainant / 2nd respondent against her husband and in-laws. On the basis of the complaint, the aforesaid FIR came to be registered against the petitioners.

4. When the matter is taken up for hearing, the petitioners and the second respondent, appeared in person and their identifications were verified by this Court, in addition to the confirmation of the identity of the parties by the learned Government Advocate (Crl.Side) through the respondent police.

5. Learned counsel appearing for the parties filed a joint memo of compromise, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in C.C.No.105 of 2014 pending on the file of the District Munsif-cum-Judicial Magistrate, Thiruvadanai .

5.1. Even in respect of matrimonial disputes, there are two kinds of cases, a) one kind relates to existing and continuing relationship between the parties; in this type of case; having regard to the preservation of family tie and in the interest of welfare of children, the Court might have to consider the claim of settlement between the parties, b) yet another kind of case is, where there is dowry death and abetment to commit suicide, where the implication is felt more seriously by the society, in which the permission to compound cannot be considered at all.

5.2. So far as this case is concerned, the defacto complainant has stated that her husband has already pronounced triple Talaq, thereby her marriage has been brought to an end and that her husband has also paid Rs.9 lakhs towards permanent maintenance to her and therefore, she is not interested in prosecuting these petitioners.

5.3. From the compromise, this Court can safely infer that the chances of the defacto complainant deposing against the petitioner



is less and therefore, the chance of conviction of the accused is bleak.

6. When such a situation arose in similarly placed matters in Crl.O.P. (MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

"11.....As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves....."

7. Therefore, considering, a) the nature of relationship between the parties, b) nature of offences alleged c) the settlement arrived at and d) the ultimate result of the prosecution, this Court is of the view that quashing of the **Calendar Case (C.C.)** will be in the ends of justice and accordingly, the same is ordered to be quashed.

8. In the result, this Criminal Original Petition is allowed and the entire proceeding in C.C.No.105 of 2014 on the file of the District Munsif-cum-Judicial Magistrate, Thiruvadanai in respect of the petitioners is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub Assistant Registrar

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To:

1. The District Munsif-cum-Judicial Magistrate,
Thiruvadanai.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Inspector of Police,
All Women Police Station,



Thiruvadanai,
Ramanathapuram District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Panneer Selvam, Advocate Sr.No. 49486

JAM/14.10.16/AAL-MPA/4P-5C

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