



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

Cr1.O.P.(MD)No.24157 of 2015

1.Edward
2.Maria Xavier
3.Jeritha
4.Victoria
5.Gladson

.. Petitioners

Vs.

1.The State rep by
The Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
(Crime No.24 of 2015)

2.Bersha Dhavasajini

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the proceedings in Crime No.24 of 2015 on the file of the 1st Respondent Police Station and quash the same.

For Petitioner	: Mr.K.P.Narayanakumar
For 1 st Respondent	: Mr.A.P.Balasubramani, Government Advocate. (Criminal Side)
For 2 nd Respondent	: Mr.G.Radhakrishnan

ORDER

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.



Tamilnadu Prohibition of Harassment of Women Act by the 1st respondent against the petitioners.

3. When the matter is taken up for hearing, the petitioners and the second respondent, appeared in persons and their identifications were also 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.

4. Learned counsel appearing for the parties filed a joint memo of compromise dated 21.12.2015, duly stating that since the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the above case in Crime No.24 of 2015 pending on the file of the first respondent.

4.1. From the compromise, this Court can safely infer that the chances of the defacto complainant deposing against the petitioners is less and therefore, the chance of conviction of the accused is bleak.

4.2. 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 type 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.

4.3. So far as this case is concerned, it is reported that the matter has been settled between the parties and the first petitioner and de-facto complainant/second respondent have decided to get separate by getting an order of divorce. It is represented that the second respondent/wife has filed a petition for divorce, for which, the first petitioner/husband has no objection for grant of divorce and therefore, the dispute is personal in nature and **the possibility of conviction is remote and bleak**. Therefore, the proceedings must be quashed.

5. 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....."

6. 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 **First Information Report** will be in the ends of justice and accordingly, the same is ordered to be quashed.

7. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.24 of 2015 pending on the file of the 1st respondent police in respect of the petitioners are hereby quashed.

Sd/
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
- 2.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.K.P.NARAYANA KUMAR, Advocate SR.No.48439

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SMA/CK/15/09/2016 :3P/4C