



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2016

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA

Crl.O.P. (MD) .No.10240 of 2016

1.Manikandan
2.Karthick
3.Rajkamal
4.Logesh
5.Theasikan

.. Petitioners/A1 to A5

Vs.

1.The State rep. by
the Sub Inspector of Police,
Jetty Police Station,
Rameshwaram,
Ramanathapuram District.
(Crime No.44 of 2016)

.. 1st respondent/Complainant

2.Thatchinamoorthy

.. 2nd respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the FIR in Crime No.44 of 2016, dated 20.04.2016 on the file of the first respondent Police and quash the same.

For Petitioner : Mr.A.Uthaya Kumar

For 1st respondent : Mr.K.V.Rajarajan,
Government Advocate Criminal side)

For 2nd respondent : Mr.G.Vishnuram

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.



2. A case in Crime No.44 of 2016 has been registered under Sections 147, 148, 294(b), 307 and 379(NH) IPC r/w Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act by the 1st respondent against the petitioners.

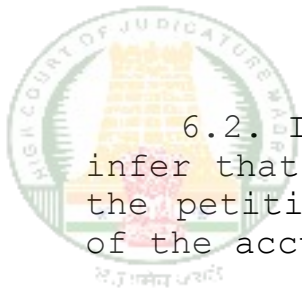
3. The case of the prosecution is that on 19.04.2016 at 10.00 p.m. the petitioners / accused along with six others consumed alcohol in front of the defacto complainant's fish shop and the same was questioned by him, due to which on 20.04.2016 at 4.30 p.m. these petitioners came to the shop of the defacto complainant and the 4th petitioner herein viz., Logesh, at the instigation of others, attempted to stab him by knife, but he escaped by his sudden turn and again when the 4th petitioner tried to attack him with knife, one Ganesan, who tried to stop the same, sustained a cut injury and then the accused damaged his two wheeler and shop, and also took away cash of Rs.1,50,000/- from the shop.

4. When the matter is taken up for hearing, the petitioners and the second respondent, appeared in person 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.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 22.06.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in Sessions Case No.44 of 2016 pending on the file of the first respondent police.

6. The offence under Section 307 IPC is serious in nature. At the initial stage, cases under Section 307 IPC are being registered, on the mere allegation of the defacto complainant that the accused used threatening words saying that he would do away with the life of the defacto complainant. In some cases, though the case under Section 307 IPC is registered, neither the intention nor the act complained of could establish the offence under Section 307 IPC. The motive for the occurrence, the nature of weapon used, the nature of injury sustained, period of treatment and the conduct of the accused are all critical factors to be considered in deciding whether the offence under Section 307 is made out or not.

6.1. So far as this case is concerned, the de-facto complainant, who is personally present in this Court, himself stated that no one sustained any injury. Thus, it is clear that there could be no intention on the part of the accused to kill the defacto complainant. Mere allegation that there was an attempt to do away with life of the defacto complainant do not constitute the offence under Section 307 IPC and the case under Section 307 IPC has been registered only to threaten the accused.



6.2. In view of the above circumstances, this Court can safely infer that the chances of the defacto complainant deposing against the petitioners is less and therefore, the chances of conviction of the accused is bleak.

7. The Hon'ble Supreme Court in the case of **B.S.Joshi vs. State of Haryana**, reported in **(2003) 4 SCC 675** held that the High Court can quash the proceedings under Section 482 Cr.P.C., if it comes to the conclusion that ends of justice so requires, i.e. there would be almost no chance of conviction. Thus, B.S.Joshi's case provided a creative solution for quashing of proceedings under Section 482 Cr.P.C.

8. Therefore, considering, a) the relationship of the parties, b) the absence of the motive for the occurrence, c) the nature of weapon used, d) the conduct of the accused and e) the ultimate result of the prosecution, this Court is of the view that quashing of the FIR will meet the ends of justice and accordingly, the same is ordered to be quashed.

9. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.44 of 2016, dated 20.04.2016, pending on the file of the first respondent Police are hereby quashed in respect of the petitioners.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

gcg

To

1.The Sub Inspector of Police,
Jetty Police Station,
Rameshwaram,
Ramanathapuram District.

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

+1CC to Mr.A.Uthayakumar, Advocate Sr.No.34631

GJM/SS3/16.9.16-3p-4c

Cr1.O.P (MD) No.10240 of 2016
01.07.2016