



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.10564 of 2016

1.Rajesh

2.Suresh

3.Marimuthu

... Petitioners/Accused

-vs-

1. State Rep. by
The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin,
Tuticorin District.
(Crime No.438/2015)

... 1st Respondent/Complainant

2. Pandi

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records relating to the FIR in Crime No.438 of 2015 on the file of the Inspector of Police, Muthiyapuram Police Station, Tuticorin, Tuticorin District and quash the same.

For Petitioner : Rajesh(Party in person)

For R1 : Mr.P.Kandasamy
Additional Public Prosecutor

For R2 : Pandi(Party in person)

O R D E R

This petition has been filed seeking to quash the case registered in Crime No.438 of 2015 on the file of the 1st respondent herein.

2. It is seen that the case in Crime No.438 of 2016 has been registered by the Muthaiahpuram Police for the alleged offences under Sections 294(b), 323, 307 and 506(ii) IPC. The occurrence is said to have taken place on 13.12.2015 at about 19:30hrs.

<https://hcservices.courts.gov.in/hcservices/> When the matter is taken up for hearing, the petitioners/Accused 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 Government Advocate through the respondent Police.

4. It is the case of the prosecution that when the 1st petitioner along with the other petitioners went to the house of the de-facto complainant, who is none other than the father-in-law of the 1st petitioner, to take her wife back to his matrimonial home. The petitioners attacked the de-facto complainant, in which, the de-facto complainant sustained injuries.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 23.06.2016, duly stating that since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent has agreed to withdraw the above case in Crime No.438 of 2015 pending on the file of the first respondent.

5. The offence under Section 307 IPC is serious in nature. In some cases 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 he has sustained only simple injury and there is no grievous hurt and for the injury, he has taken treatment only for few days. Thus, it is clear that there could be no intention on the part of the accused to kill the defacto complainant; that mere allegation that there was an attempt to do away with the 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 is not to 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 absence of the motive for the occurrence, b) the nature of weapon used, c) the nature of injury sustained, d) the period of treatment, e) the conduct of the accused and f) the ultimate result of the prosecution, this Court is of the view that quashing of the Sessions Case (S.C.) will be in 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.438 of 2015 pending on the file of the respondent police, Muthiahpuram Police Station, Tuticorin District, in respect of the petitioners are hereby quashed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin,
Tuticorin District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.Senthil Sankaranathakumar, Advocate SR.No.37542

RR

sm:SKS-RR:22/09/2016:3P/4C

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