



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2016

CORAM

WEB COPY

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.10786 of 2016

1.V.Thamothiran
2.Vellaisamy
3.V.Vasanthakumari
4.V.Dhanapal

... Petitioners/Accused Nos.1 to 4

-VS-

1.State rep.by
Inspector of Police,
All Women Police Station,
Pudukottai
Crime No.31 of 2015
Tuticorin District.

... 1st Respondent/Complainant

2.T.Muthulakshmi

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for records pertaining to Charge Sheet in C.C.No.71/2016 on the file of Judicial Magistrate No.1, Tuticorin under sections 498(A), 323, 406 and 506(ii) of IPC and Section 4 of TNPHW Act and quash the same as against these petitioners.

For Petitioners : Mr.B.Rajesh Saravanan
For R1 : Mr.A.P.Balasubramani
Government Advocate
(Crl.side)

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.31 of 2015 has been registered under Sections 498(A), 323, 406 and 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women 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 Judicial Magistrate No.1, Tuticorin, which was taken on file in C.C.No.71 of 2016.

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. The defacto complainant has filed an affidavit dated 20.07.2016, duly stating that all the differences between the petitioners and defacto complainant have been settled amicably and now the defacto complainant is residing with the first petitioner viz., Thamothiran. The petitioners have also made an endorsement in the affidavit to that effect. It is also stated in the affidavit that since the parties have arrived at an amicable settlement, the second respondent is agreed to withdraw the above case in C.C.No.71 of 2016 pending on the file of the Judicial Magistrate No.1, Tuticorin.

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

4.2. 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.

4.3. So far as this case is concerned, the settlement would help the parties to continue the relationship as husband and wife 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, Seema 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 Calendar Case 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 C.C.No.71 of 2016 pending on the file of the Judicial Magistrate No.1, Tuticorin in respect of the petitioners are hereby quashed. Consequently, CrI.M.P(MD) No.5307 of 2016 is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To:

1.The Judicial Magistrate No.I, Tuticorin

2.The Inspector of Police,
All Women Police Station,
Pudukottai, Tuticorin District.

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

+1cc to M/s.B.Rajesh Saravanan, Advocate SR.No.38281

CrI.O.P.(MD)No.10786 of 2016

20.07.2016