



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALACrl.O.P.(MD) No.11114 of 2016

WEB COPY

1.Pandiarajan @ Purapandi

2.Manikandan @ Bottle mani

3.Muthukannan

4.Arihari Pandian

5.Vinothkumar @ Makkan

6.Bala @ Balamurugan

7.Karthick

... Petitioners/Accused

-vs-

1. The State rep. by
The Inspector of Police,
Tallakulam Police Station,
Madurai City.
(Crime No.719/2015)

... 1st Respondent/Complainant

2. M.Selvarajan

3. M.Manimaran ... Respondents/Defacto Complainants
Prayer: Petition filed under Section 482 of Code of Criminal
Procedure to call for the entire records pertaining to the case in
P.R.C.No.126/2015 pending on the file of the learned Judicial
Magistrate, No.II, Madurai, Madurai District and quash the same.

For Petitioners : Mr.S.Balaji
For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)
For R2 : Mr.A.Kesavan

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.719 of 2015 has been registered under
[https://hse.cse.ms.gov.in/2016/08/24/147,341,307r/w149ofIPCbythe1strespondent](https://hse.cse.ms.gov.in/2016/08/24/147,341,307r/w149ofIPCbythe1strespondentagainstthepetitioners.Aftercompletionoftheinvestigation,theInvestigatingOfficerhasfiledachargesheetbeforethe)
against the petitioners. After completion of the investigation,
the Investigating Officer has filed a charge sheet before the



learned Judicial Magistrate, No.II, Madurai, which was taken cognizance in P.R.C.No.126 of 2015.

3. The case of the prosecution is that due to previous enmity between the 1st petitioner and the 3rd respondent, on 10.06.2015, the petitioners are stated to have waylaid the respondents 2 and 3 and attacked the de-facto complainants with knife. Thus, the respondents 2 and 3 sustained injuries.

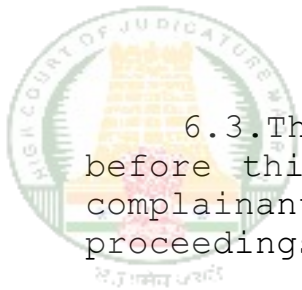
4. When the matter is taken up for hearing, the petitioners 1 to 3, 5 and 6 and the respondents 2 and 3, appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the learned Government Advocate (Crl.Side) through the respondent police.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 12.04.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in P.R.C.No.126 of 2015 pending on the file of the Judicial Magistrate, No.II, Madurai.

6. The offence under Section 307 IPC is serious in nature. At the initial stage, sometime 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 complainants. 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 complainants, who are personally present in this Court, themselves stated that they have sustained only simple injuries and there is no grievous hurt and for the injury, they have 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 complainants 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 complainants deposing against the petitioners is less and therefore, the chances of the accused is bleak.



6.3. Though the petitioners 4 and 7 are not personally present before this Court, who are stated to be in abroad, the de-facto complainants stated that they have no objection for quashing the proceedings as against the petitioners 4 and 7.

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 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 P.R.C.No.126 of 2015 pending on the file of the Judicial Magistrate, NO.II, Madurai District in respect of the petitioners are hereby quashed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Judicial Magistrate, No.II
Madurai.
2. The Inspector of Police,
Tallakulam Police Station,
Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1cc to M/s.S.Balaji, Advocate SR.No.47000

CrI.O.P.(MD) No.11114 of 2016

24.08.2016

<https://hcmca.gov.in/govt/govt-services/> **Enclosed Memo : Herein enclose a copy of Joint Compromise Memo**

rr

SD/GSV-PM/08.09.2016/3P/5C