



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2016

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE P.DEVADASS

Cr1.O.P(MD)Nos.11582 & 11583 of 2016

1.Cr1.O.P(MD)No.11582 of 2016:-

1.K.Manivanan @ Manimanan

2.M.Murali

3.S.Saravanan

... Petitioners/Accused Nos.1 to 3

vs.

1.State rep. By,

The Inspector of Police,

Vangal Police Station,

Karur District.

(Crime No.259 of 2015) ... 1st Respondent/Complainant

2.S.Senthilkumar

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C to call for the records and quash the same in P.R.C.No.19 of 2016 pending before the learned Judicial Magistrate No.2, Karur, Karur District in Crime No.259 of 2015 on the file of the respondent Police.

For Petitioners : Mr.B.Jameel Arasu

For R - 1 : Mr.P.Kandasamy

Government Advocate (Criminal Side)

For R - 2 : Mr.K.P.S.Palanivelrajan

2.Cr1.O.P(MD)No.11583 of 2016:-

1.Senthil Kumar

2.Thirulogu @ Thirulogasathiran

@ Thirulogasathar

3.Sathish Kumar

4.Saravanan

5.V.Muruganatham

6.S.Kanayan

... Petitioners/Accused Nos.1 to 7

vs.



1.State rep. By,
The Inspector of Police,
Vangal Police Station,
Karur District.

(Crime No.260 of 2015) ... 1st Respondent/Complainant

2.K.Anandh

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C to call for the records in Crime No.260 of 2015 on the file of the first respondent and to quash the same.

For Petitioners : Mr.K.P.S.Palanivelrajan

For R - 1 : Mr.P.Kandasamy

Government Advocate (Criminal Side)

For R - 2 : Mr.B.Jameel Arasu

COMMON ORDER

As there are common factual aspects and common events, parties are connected, both the Criminal Original Petitions are heard together and are being disposed of by this common order.

Crl.O.P(MD)No.11582 of 2016:-

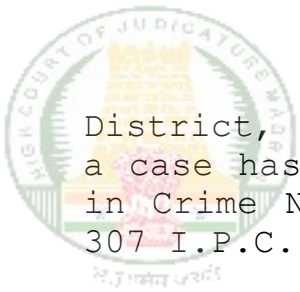
2. A.1 to A.3 in Crime No.259 of 2015 registered by the first respondent/Inspector of Police, Vangal Police Station, Karur District, have filed Crl.O.P(MD)No.11582 of 2016 under Section 482 Cr.P.C to quash the entire criminal proceedings in P.R.C.No.19 of 2016. Now, it is stated that the learned Judicial Magistrate No.II, Karur has committed the case to the Court of Sessions, Karur. Now, it is pending in S.C.No.55 of 2016 on the file of the Sessions Court, Karur.

Crl.O.P(MD)No.11583 of 2016:-

3. A.1 to A.7 in Crime No.260 of 2015 registered by the first respondent/Inspector of Police, Vangal Police Station, Karur District, have filed Crl.O.P(MD)No.11583 of 2016 under Section 482 Cr.P.C to quash the F.I.R.

4. In Crime No.260 of 2015, the defacto complainant is one K.Anandh. He is present today. He is being represented by a lawyer. Except A.4, all other accused are present. The said Saravanan's brother is also present. The learned counsel for the accused is also present. Prosecution is represented by the learned Government Advocate (Criminal Side).

<https://hcservices.ecourts.gov.in/hcservices> Based on the complaint of the said Aanandh, with regard to an occurrence taken place on 25.12.2015 in Kadambankurchi Village situate in Manmamgalam Taluk in Karur



District, in connection with the Bhagavathi Amman Temple function, a case has been registered as against A.1 to A.7 by Vangal Police in Crime No.260 of 2015 under Sections 294(b), 147, 148, 427 and 307 I.P.C. This case is still in F.I.R stage.

6. A counter case in Crime No.259 of 2015 based on the complaint of Senthil Kumar (A.1 in Crime No.260 of 2015) has been registered by the same Police for offences under Sections 294(b), 324, 506(ii) I.P.C r/w Section 3(1)(X) SC/ST (POA) Act, 1989. In this case, investigation completed. Final report has been filed before the Judicial Magistrate No.II, Karur. Cognizance has been taken in P.R.C.No.19 of 2016. The case has been committed to the Court of Sessions, Karur. It is pending in S.C.No.55 of 2016 in the said Court.

7. The defacto complainant-Senthil Kumar and A.1 to A.3 and their respective counsels, the learned Government Advocate (Criminal Side) and A.Ramaiah, SSI of Police are present.

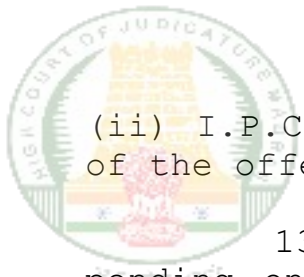
8. According to the learned counsel for the petitioners in CrI.O.P(MD)No.11582 of 2016 and 11583 of 2016, both the cases are case and case in counter. In both the cases, they have compromised the matter. They belongs to same Kadambankurchi Village. They have buried the hatchet. They have forgotten the bitter past and look for better future. In such circumstances, the defacto complainants in both the cases have compounded the offences and joint compromise memos also have been filed in both the cases.

9. The learned counsel for the petitioner in CrI.O.P(MD) No.11583 of 2016 would further submit that even taking the allegations in the F.I.R as such it would not warrant an offence under Section 307 I.P.C as against A.1. At the most, it may a warrant an offence under Section 506(ii) I.P.C.

10. The learned Government Advocate (Criminal Side) would submit that in Crime No.260 of 2016 offences under Sections 147, 148 and 307 I.P.C are non-compoundable, so also in Crime No.259 of 2016 offences under Section 3(1)(X) SC/ST (POA) Act, 1989, is non-compoundable.

11. Now, we have to see whether an offence under Section 307 I.P.C is attracted in Crime No.260 of 2015, as against A.1.

12. On 25.12.2015, in Kadambankurchi Village, in setting up of mike set in connection with Bhagavathi Amman Temple festival in the said Village, the occurrence is alleged to have been taken place. As per the complaint, A.1-Senthil Kumar tried to kill Ananth with an Aruval aiming on his head. Complaint also stated that he has safe guarded himself and he was unhurt. He did not suffer any injury. At about that time, it is almost a group clash. Thus, it would attract an offence under Section 506



(ii) I.P.C and not under Section 307 I.P.C. It is seen that some of the offences are non-compoundable.

13. Crime No.259 of 2015, led to S.C.No.55 of 2016 pending on the file of Sessions Court, Karur. In this case also some of the offence is non-compoundable.

14. Both the cases are case and case in counter. Both sides belongs to same Village. They have forgotten the past. They have shaken hands. They want to maintain it. In the circumstance, continuation of these cases will be a hitch in their continued relationship, more particularly, since belongs to the very same Village, each has to see the face of the other. They have given good reason for compounding the offence. But, some of the offences are not compoundable.

15. As per Section 320(9) Cr.P.C., unless otherwise provided compounding of offences shall not be permitted. Section 482 Cr.P.C., has a non-obstante clause nothing in the Code shall be limit or affect the inherent powers of the High Court to implement orders passed under this Code, or to prevent abuse of process of any Court or otherwise to secure the ends of justice. Therefore, when a criminal case contains, non-compoundable offences and there are acceptable reasons to compound the offences and when the offences are not serious and heinous offences, such as offences under Sections 302, 307 and 376 I.P.C etc, this Court permitted compounding the offence under Section 482 Cr.P.C, although they are not compoundable under Section 320 Cr.P.C.

16. In the facts and circumstances, the said principle can be applied to the present case, as we have satisfied with the reasons stated by the parties in both the cases to compound the offences.

17. In view of the foregoing, the F.I.R in Crime No.260 of 2015 and the entire criminal proceedings in S.C.No.55 of 2016 on the file of the learned Sessions Judge, Karur are quashed.

18. Accordingly, these Criminal Original Petitions are disposed of.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar



To

1.The Sessions Judge,
Karur.

2.The Judicial Magistrate No.II,
Karur.

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

4.The Deputy Superintendent of Police,
Karur Town Sub Division,
Karur.

5.The Inspector of Police,
Vangal Police Station,
Karur District.

+1cc to Mr.B.Jameel Arasu, Advocate SR.No.37199

+1cc to Mr.K.P.S.Palanivel Rajan, Advocate Sr.No.37198

ps

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