



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Cr1.O.P. (MD) No.11759 of 2016

1. Edwin
 2. Stephen
 3. Darwin Harris
- ... Petitioners/A1 to A3

-vs-

1. The State Rep. by
The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
(Crime No.56/2016) ... 1st Respondent/Complainant
2. John Justin ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for records in S.C.No.130 of 2013 on the file of the Sub-Court, Padmanabhapuram and quash the same.

For Petitioners : Mr.R.Russel Raj

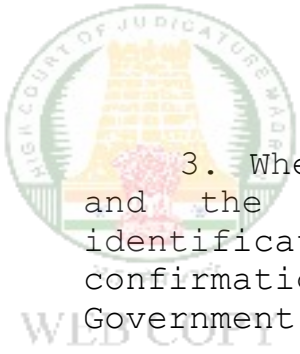
For R1 : Mr.P.Kandasamy
Govt. Advocate (Cr1.Side)

For R2 : Mr.M.Joseph Raj

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.29 of 2013 has been registered under **Sections 341, 294(b), 332 and 307 IPC** by the 1st respondent against the petitioners. After completion of the investigation, the Investigating Officer has filed a charge sheet, which was taken cognizance by the Sub-Court, Padmanabhapuram in S.C.No.130 of 2013.



3. When the matter is taken up for hearing, the petitioners and the second respondent, appeared in person and their identifications were 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. Learned counsel appearing for the parties filed a joint memo of compromise dated 04.07.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in S.C.No.130 of 2013 pending on the file of the Sub-Court, Padmanabhapuram.

5. The offence under Section 307 IPC is serious in nature. At the initial stage, some 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.

5.1. 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. From the compromise, 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 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 proceedings 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 proceeding in in S.C.No.130 of 2013 pending on the file of the Sub-Court, Padmanabhapuram is hereby quashed against the petitioners/accused.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Sub Court, Padmanabhapuram.
2. The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1cc to M/S.R.RUSSEL RAJ,ADVOCATE, SR NO: 39806

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JA-SK-SKN-29.09.2016-3P-5C

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