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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Cr1.O.P. (MD) No.12893 of 2016

Isac ... Petitioners/Sole Accused
-vs-

1. The State through
The Inspector of Police,
Poothapandi Police Station,
Kanniyakumari District.
(Crime No.410 of 2015) ... 1st Respondent/Complainant
2. Krishdal John ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the entire records connected with the case in Crime No.410 of 2015 pending on the file of the 1st respondent and quash the same as illegal.

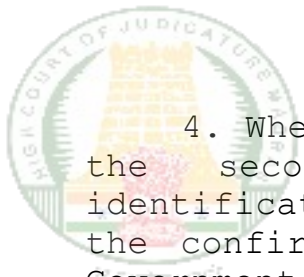
For Petitioner2 : Mr.S.Malaikani
For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Cr1.Side)
For R2 : Mr.A.Abdul Kabur

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.410 of 2015 has been registered under **Sections 341, 294(b), 307 and 506(ii) IPC** by the 1st respondent against the petitioner.

3. The case of the prosecution is that the petitioner and the defacto complainant / R2 are friends; that the petitioner used to borrow money from the defacto complainant; when the defacto complainant asked for return of the money, the petitioner, in an intoxicated state stopped the petitioner and attempted to attack the defacto complainant with Aruval.



4. When the matter is taken up for hearing, the petitioner and the second respondent, appeared in person 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.

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5. Learned counsel appearing for the parties filed a joint memo of compromise dated 07.06.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in Crime No.410 of 2015 pending on the file of the 1st respondent police.

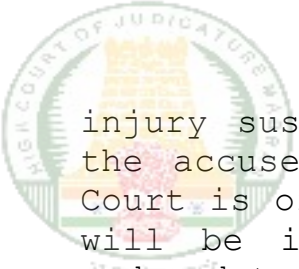
6. The offence under Section 307 IPC is serious in nature. At the initial stage, in some cases, cases under Section 307 IPC are being registered, on the mere allegation of the defacto complainant that the accused used threatening words saying that he would do away with the life of the defacto complainant. 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 there was no injury to him and that he had not taken any treatment in the hospital. 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. From the above, this Court can safely infer that the chances of the defacto complainant deposing against the petitioner 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.

<https://hcservices.courts.haryana.gov.in/hcservices/> 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 **First Information Report** 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 Crime No.410 of 2015 pending on the file of the 1st respondent police in respect of the petitioner is hereby quashed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To:

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

+1 CC to Mr.S.MALAIKANI, Advocate, SR No.42048

Cr1.O.P.(MD) No.12893 of 2016
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