



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALACrl.O.P.(MD) No.13199 of 2016WEB COPY
Shanmugam

... Petitioner/Sole Accused

-vs-

1. The State Rep. by
The Inspector of Police,
Ulagampatti Police Station,
Sivagangai District.
(Crime No.47/2013)

... 1st Respondent/Complainant

2. Muthu

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the Charge Sheet in connection with S.C.No.3 of 2016 on the file of the Hon'ble Sub Court, Sivagangai, Sivagangai District and quash the same.

For Petitioner	:	Mr.RMS.Sethuraman
For R1	:	Mr.A.P.Balasubramani Govt. Advocate (Crl.Side)
For R2	:	Mr.S.T.Sasidharan Tamilkani

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.47 of 2013 has been registered under Sections 448, 294(b), 324 and 307 IPC by the 1st respondent against the petitioner. After completion of the investigation, the Investigating Officer has filed a charge sheet before the learned Sub Court, Sivagangai, Sivagangai District, which was taken cognizance by the Sub Judge in S.C.No.3 of 2016.

3. The case of the prosecution is that aggrieved over the fact that the defacto complainant did not get a girl for the accused to marry, he has caused injury to the defacto complainant and used abusive language against her.

<https://hcservices.courts.gov.in/hcservices/> 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.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 26.07.2016, 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.3 of 2016 pending on the file of the learned Sub Court, Sivagangai, Sivagangai District.

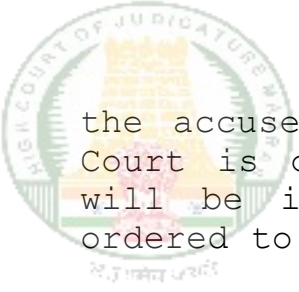
6. The offence under Section 307 IPC is serious in nature. At the initial stage, in some case, cases under Section 307 IPC are being registered, on the mere allegation of the defacto complainant that the accused used threatening words saying that he would do away with the life of the defacto complainant. 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, herself stated that she has sustained only simple injury and there is no grievous hurt on her body. A copy of Accident Register has also been produced in this Court, wherein it has been mentioned that the injury is simple in nature. 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. In view of the above circumstances, 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.tn.in/hcservices/> 8. This Court, 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 proceeding in S.C.No.3 of 2016 on the file of the Sub Court, Sivagangai, Sivagangai District in respect of the petitioner is hereby quashed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The Subordinate Judge,
Sivagangai,
Sivagangai District.
2. The Inspector of Police,
Ulagampatti Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1cc to M/s.RMS.Sethuraman, Advocate SR.No.42163

Cr1.O.P.(MD) No.13199 of 2016

03.08.2016

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SD/SKS-RR/26.09.2016/3P/5C