



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.08.2016
CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD)No.15684 of 2016

WEB COPY

1.A.Arivalagan

2.Vijayalakshmi

... Petitioners/A1 and A2

Vs.

1.The State through
The Sub-Inspector of Police,
S.S.Colony Police Station,
Madurai District.

... 1st Respondent/Complainant

2.Senthilkumar

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records connected with the case in C.C.No.268 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai and quash the same as illegal.

For Petitioners : Mr.R.Alagumani

For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

For R2 : Mr.L.M.Vijai Boominathan

O R D E R

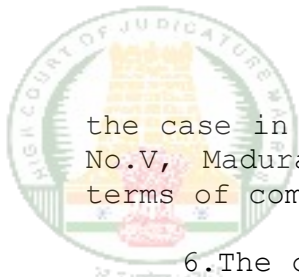
Section 482 Cr.P.C., saves inherent power of the Court. Such inherent power can be exercised either to prevent the abuse of the process of the Court or otherwise to secure the ends of justice. Invoking such inherent power, this petition has been filed to quash the proceedings on the ground that the continuance would amount to abuse of the process of the Court.

2.It is seen that the petitioners are husband wife; the de facto complainant is the brother of the first petitioner; there had been some family dispute between the petitioners and the de facto complainant; on 18.06.2015, it is alleged that the petitioners criminally intimidated the de facto complainant and also caused grievous hurt to him by using a knife; in respect of which, a case in Crime No.597 of 2015 has been registered under Sections 294(b), 323, 324 and 506(ii) IPC and has been taken on file in C.C.No.268 of 2016.

3.When the matter is taken up for hearing, the petitioners and the second respondent, 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.

4.The learned counsel for the petitioners would submit that there is a compromise at the instance of the elders in the family and that the de facto complainant is not likely to depose against the petitioners herein.

<https://hcservices.501leg.gov.in/hcservices/> Counsel appearing for the parties filed a joint memo of compromise dated 17.08.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw



the case in C.C.No.268 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai. The petitioners and the de facto complainant admitted the terms of compromise.

6.The offence under Section 324 IPC is serious in nature. In some cases, though the case under Section 324 IPC is registered, neither the intention nor the act complained of could establish the offence under Section 324 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 324 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 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 make grievous hurt to the defacto complainant.

7.In view of the above circumstances, this Court can safely infer that the chances of the de facto complainant deposing against the petitioners is less and therefore, the chance of conviction of the accused is bleak.

8.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.

9.Therefore, considering, a) the absence of the motive for the occurrence, b) the nature of relationship between the parties, c) nature of weapons used, d) the nature of injury sustained, e) the period of treatment, f) the conduct of the accused, g) the settlement arrived at and h) the ultimate result of the prosecution, this Court is of the view that quashing of the case in C.C.No.268 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai will be in the ends of justice and accordingly, the same is ordered to be quashed.

10.In the result, this Criminal Original Petition is allowed and the entire proceedings in C.C.No.268 of 2016 on the file of the learned Judicial Magistrate No.V, Madurai in respect of the petitioners are hereby quashed.

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.V, Madurai.

2.The Sub-Inspector of Police, S.S.Colony Police Station,
Madurai District.

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

+One cc to Mr.R.Alagumani, Advocate, SR.No.47947

smn

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ORDER MADE IN

CrI.O.P. (MD) No.15684 of 2016
26.08.2016