



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Cr1.O.P. (MD) No.15940 of 2016

1. Kandhasamy
2. Murugan
3. Velayutham
4. Sudalai Muthu ... Petitioners/A1 to A4

-VS-

1. The State rep. by its
Sub Inspector of Police,
Srivaikundam Police Station,
Srivaikundam, Tuticorin District.
(Crime No.326/2013) ... 1st Respondent/Complainant
2. Paramasivan ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records relating to the proceedings in C.C.No.431 of 2015 on the file of the learned Judicial Magistrate Court, Srivaikundam and quash the same.

For Petitioners : Mr.S.R.Durairaj
For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Cr1.Side)
For R2 : Mr.S.Jeyapaul

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.326 of 2013 has been registered under **Sections 379 IPC** by the 1st respondent against the petitioners herein.



3. It is the case of the prosecution that on 20.11.2013, the accused Nos.1 to 4 came in a vehicle and had taken away/committed theft of the cattle, worth about Rs.10,000/-. Originally the complaint has been lodged by the 2nd respondent alleging that somebody committed theft of the cattle. On completing the investigation, final report has been filed in C.C.No.431/2015.

4. As far as the case of the petitioners are concerned, the learned counsel for the petitioners would submit that the petitioners are not concerned with the occurrence at all and the cattle, which found missing would have gone probably for grazing and thereafter, it returned to the 2nd respondent.

5. When the matter is taken up for hearing, the petitioners 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.

6. Learned counsel appearing for the parties filed a joint memo of compromise dated 05.10.2015, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the above case in C.C.No.431/2015, Judicial Magistrate Court, Srivaikundam, pending on the file of the first respondent.

6.1. 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 **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 proceedings in C.C.No.431 of 2015 on the file of the Judicial Magistrate Court, Srivaikundam, in respect of the petitioners are hereby quashed.

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Sd/
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To:

- 1 The Judicial Magistrate Court,
Srivaikundam,
- 2 The Sub Inspector of Police,
Srivaikundam Police Station,
Srivaikundam, Tuticorin District.
- 3 The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1 cc to MR.M.S.JEYAKARTHIK, Advocate Sr.No.48405

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SMA/SS-3/SAR-2/19/10/2016 :3P/5C