



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2016

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

Cr1.O.P. (MD) No.16000 of 2016

- 1.Selvaraj
- 2.Edison
- 3.Gnanathiraviam
- 4.Nesadurai
- 5.Durai
- 6.Robert Jeyakumar
- 7.Joseph
- 8.Gnanadoss
- 9.Gnanamuthu
- 10.Kennadi @ John Kennadi
- 11.Samuvel
- 12.Srinivasagam
- 13.Balasingh
- 14.Rajasingsh
- 15.Samson
- 16.Maharaja Singh
- 17.David Selvaraj
- 18.Solomon Raj
- 19.Branklin
- 20.Sanki
- 21.Kennady
- 22.Gunapal Jeyasingh
- 23.Albert Asirvatham
- 24.Agu Thiraviyaraj
- 25.Immanuvel
- 26.ADJC Robert
- 27.Paul Balasingh
- 28.Kingsly
- 29.Selvaraj
- 30.ADJC Dinakar
- 31.ADJC Manohar
- 32.Alaguraj
- 33.John Kennady
- 34.Sekar Sundar Singh
- 35.Nelson Durai Jebamani
- 36.Ravikumar
- 37.Gunasekaran
- 38.Ashok

**Vs.**

1. The State Rep by
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
(Crime No.153/2008) ... 1st Respondent/Complainant

2. A.H.L.Billy ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the impugned proceedings in PRC.No.125/2013 on the file of the Learned Judicial Magistrate No.1, Tirunelveli and quash the same.

For Petitioner	: Mr.RM.Arun Swaminathan
For 1 st Respondent	: Mr.A.P.Balasubramani, Government Advocate. (Criminal Side)
For 2 nd Respondent	: Mr.S.Udhaya Kumar

ORDER

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.153 of 2008 has been registered under Sections 147, 148, 294(b), 324, 307 and 120(b) IPC r/w Section 3 of TNPPDL Act by the 1st respondent against the petitioners. After completion of the investigation, the Investigating Officer has filed a charge sheet before the learned Judicial Magistrate No.I, Tirunelveli, and the same has been taken on file in P.R.C.No.125 of 2013.

3. The case of the prosecution is that on 05.02.2008, due to election motive with regard to a Diocese, the petitioners/accused have attacked the second respondent/defacto complainant by using deadly weapons.

4. 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 (Cr1.Side) through the respondent police.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 26.08.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in P.R.C.No.125 of 2013 pending on the file of the Judicial Magistrate No.I, Tirunelveli.

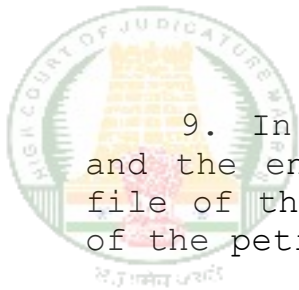
6. The offence under Section 307 IPC is serious in nature. At the initial stage, cases under Section 307 IPC are being registered, on the mere allegation of the defacto complainant that the accused used threatening words saying that he would do away with the life of the defacto complainant. In some cases, 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, as per direction issued by this Court on 30.08.2016, the injured persons appeared before the Court and submitted that they have no objection for the case being closed or otherwise dealt with in any manner. The facts and circumstances did not disclose any 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 towards, threatening 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 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 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 **(P.R.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 proceedings in **P.R.C.No.125 of 2013** pending on the file of the Judicial Magistrate Court, No.I, Tirunelveli in respect of the petitioners are hereby quashed.

WEB COPY

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Tirunelveli.
2. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.M.ARUL SWAMINATHAN, ADVOCATE IN SR No. 49268

MJ

TE/AAL-MPA/SAR-I : 27/09/2016 : 4P/5C (IT)

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