



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Cr1.O.P. (MD) No.16377 of 2016

WEB COPY

1. S.Murugan
2. K.Kannan
3. Ganapathy Vel Kathiravan
4. E.Mariappan
5. E.Subash
6. M.Lakshmanan
7. K.Selvam
- 8.M.Esakkimuthu
9. G.Mariappan
10. K.Mohideen Nagarajan
11. P.Esakkimuthu
12. Antonyraj
13. P.Selvam

... Petitioners/A1 to A13

-VS-

1. The State Rep. by
The Inspector of Police,
Gangaikondan Police Station,
Tirunelveli District.

... 1st Respondent/Complainant

2. Indhumathi

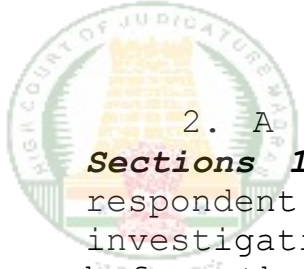
... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records and quash the charge sheet filed against the petitioners in P.R.C.No.41 of 2016 on the file of the learned Judicial Magistrate Court No.III, Tirunelveli in respect of Crime No.40 of 2015 on the file of the 1st respondent police.

For Petitioner: Mr.S.Kumar
For Mr.K.Esakki
For R1 : Mr.K.V.Rajarajan
Govt. Advocate (Cr1.Side)
For R2 : Mr.V.B.Sundhareshwar

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.40 of 2015 has been registered under **Sections 147, 148, 341, 294(b), 307 and 506(ii) IPC** 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 Court No.III, Tirunelveli, which is pending for completion of committal proceedings in P.R.C.No.41 of 2016.

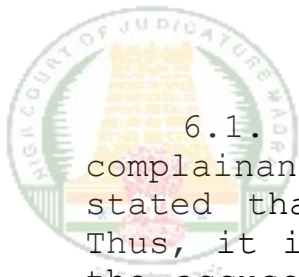
3. The case of the prosecution is that aggrieved over the fact that the defacto complainant entered into an intercaste marriage with one Arumuga Karthik, her father / 4th petitioner herein along with other petitioners / accused / relatives scolded the defacto complainant in filthy language and assaulted her, which resulted in registration of the case in Crime No.40 of 2015.

4. When the matter is taken up for hearing, except the 8th petitioner, who was arrested and remanded to judicial custody on the basis of the warrant issued against him, all other 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 (Crl.Side) through the respondent police. Learned counsel for the petitioners filed a memo on behalf of the 8th petitioner, requesting to dispense with his personal appearance, as the defacto complainant has no objection to quash the proceeding against all the petitioners including 8th petitioner.

4.1. In view of the memo filed by the 8th petitioner, his personal appearance before this Court is dispensed with.

5. Learned counsel appearing for the parties filed a joint memo of compromise, 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.41 of 2016 pending on the file of the learned Judicial Magistrate Court No.III, Tirunelveli.

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



6.1. So far as this case is concerned, the de-facto complainant, who is personally present in this Court, herself stated that nobody sustained injury in the alleged occurrence. 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 persons.

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.

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 proceeding in P.R.C.No.41 of 2016 on the file of the learned Judicial Magistrate Court No.III, Tirunelveli in respect of the petitioners is hereby quashed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To:

1. The Judicial Magistrate No.III, Tirunelveli .
2. The Inspector of Police,
Gangaikondan Police Station, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.ESAKKI VIGNESH, Advocate, SR No.49868