



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.16489 of 2016

1. Musthafa @ Mohammed Musthafa
2. Sikkandhar
3. Jalal @ Ahammed Jalal
4. Ibrahim Gani
5. Dawood
6. Ajeesh

... Petitioners/A1 to A3 & A5 to A7

-vs-

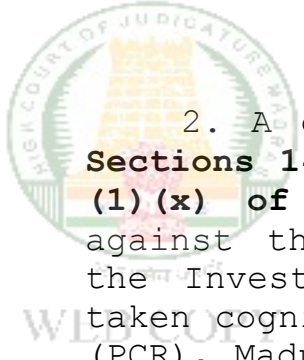
1. The State Rep. by
The Deputy Superintendent of Police,
Oomachikulam Sub Division,
Madurai District. ... 1st Respondent/Complainant
2. The Inspector of Police,
Silaiman Police Station,
Madurai District. ... 2nd Respondent/Complainant
3. Sasikumar ... 3rd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to Spl.S.C.No.37 of 2016 for the alleged offences punishable under Sections 147 and 323 IPC and Section 4 of TNPHW Act r/w Section 3(1)(x) of SC/ST Act r/w Section 149 IPC pending before the III Additional District and Sessions Court (PCR), Madurai filed by the respondent/complainant and quash the same with regard to the petitioners.

For Petitioners	:	Mr.D.S.Haroon Rasheed
For R1 & R2	:	Mr.K.V.Rajarajan
		Govt. Advocate (Crl.Side)
For R3	:	Mr.A.Balaji

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. 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.164 of 2011 has been registered under **Sections 147 and 323 IPC and Section 4 of TNPHW Act r/w Section 3 (1)(x) of SC/ST Act r/w Section 149 IPC** by the 1st respondent against the petitioners. After completion of the investigation, the Investigating Officer has filed a charge sheet, which was taken cognizance by the III Additional District and Sessions Court (PCR), Madurai.

3. The case of the prosecution is that when the defacto complainant, who belongs to Scheduled Caste Community, was distributing food in remembrance of his grandmother's 3rd day death funeral custom, the accused persons abused the defacto complainant by calling his caste name and attacked him with wooden lock, which resulted in registration of the case in Crime No.164 of 2011.

4. When the matter is taken up for hearing, the petitioners and the third 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.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 31.08.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in Spl.S.C.No.37 of 2016 pending on the file of the learned III Additional District and Sessions Court (PCR), Madurai.

6. It is seen that on the basis of the complaint given by the 1st petitioner herein, a counter case is pending against several accused, including the defacto complainant in Crime No.163 of 2011 on the same day.

6.1. So far as this case is concerned, the de-facto complainant, who is personally present in this Court, himself stated that the matter has been compromised at the intervention of the mediator and well-wishers of both sides and therefore, he has no objection in quashing the above case.

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 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 Spl.S.C.No.37 of 2016 pending on the file of the III Additional District and Sessions Court (PCR), Madurai in respect of the petitioners is hereby quashed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To:

1. The III Additional District and Sessions Court (PCR), Madurai.
2. The Deputy Superintendent of Police, Oomachikulam Sub Division, Madurai District.
3. The Inspector of Police, Silaiman Police Station, Madurai District.
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.D.S.Haroon Rasheed, Advocate Sr.NO.49674

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Cr1.O.P.(MD) No.16489 of 2016
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