



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2016

CORAM

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THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.16506 of 2016

1. Theen @ Abdul Rahman
2. Amanullah

... Petitioners/A1 & A2

-vs-

1. The State,
Rep. by The Inspector of Police,
Keelavalavu Police Station,
Melur Taluk, Madurai District.
(Crime No.186 of 2016)

... 1st Respondent/Complainant

2. Hayurinnisha

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the Crime No.186 of 2016 on the file of the 1st respondent and quash the same.

For Petitioners	:	Mr.N.R.Prabhu
For R1	:	Mr.K.V.Rajarajan
		Govt. Advocate (Crl.Side)
For R2	:	Mr.P.Velmurugan

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.186 of 2016 has been registered under **Sections 420 and 506(i) IPC** by the 1st respondent against the petitioners.

3. The allegations in the complaint is that the 1st petitioner herein approached the defacto complainant's husband and assured him to get a Driver job in a company at Riyadh; that the defacto complainant paid a sum of Rs.1,30,000/- to the 2nd petitioner as directed by the 1st petitioner; when the defacto complainant went to Riyadh, he came to know that he was appointed as Driver only in a house and not in a company and therefore, he returned to India and lodged a complaint on his behalf against the petitioners herein, which resulted in registration of the case in Crime No.186 of 2016.



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 (Crl.Side) through the respondent police.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 29.08.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the above case in Crime No.186 of 2016 pending on the file of the first respondent.

6. On enquiry with the defacto complainant, she has stated that the expenses incurred by her husband has already been paid by the petitioners / accused and therefore, she is not interested in further prosecuting the case.

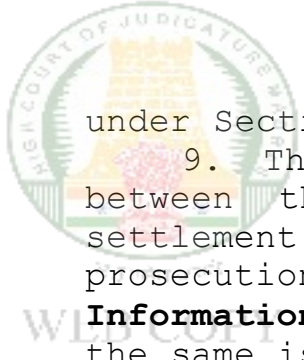
6.1. Learned Government Advocate (Crl.Side) would submit that there is no previous case as against the petitioners.

6.2. 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. When such a situation arose in similarly placed matters in **Crl.O.P.(MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016,** this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, **Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307]** and observed as under:

"11.....As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves....."

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 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.

10. In the result, this Criminal Original Petition is allowed and the entire proceeding in Crime No.186 of 2016 dated 25.05.2016 on the file of the 1st respondent police in respect of the petitioners is hereby quashed.

Sd/-

Assistant Registrar(CS I)

/True copy/

Encl:Xerox copy of Compromise memo

Sub Assistant Registrar

To:

1. The Inspector of Police,
Keelavalavu Police Station,
Melur Taluk, Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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