



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.11.2016
CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

WEB COPY

Crl.O.P. (MD) No.21473 of 2016

P.Bagavan

... Petitioner/sole Accused

Vs

1.The State represented by
The Inspector of Police,
All Women Police Station,
Ramanathapuram.
(Crime No.15 of 2016)

... 1st Respondent/Complainant

2.Kalaiyarasi

... 2nd Respondent/Defacto
Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records relating to Crime No.15 of 2016, dated 10.06.2016, on the file of the Inspector of Police, All Women Police Station, Ramanathapuram and quash the same as against the petitioner.

For Petitioner : Mr.S.Mahendrapathy

For 1st Respondents : Mr.P.Kannithevan

Government Advocate (Crl.Side)

For 2nd Respondent : Mr.D.Rameshkumar

O R D E R

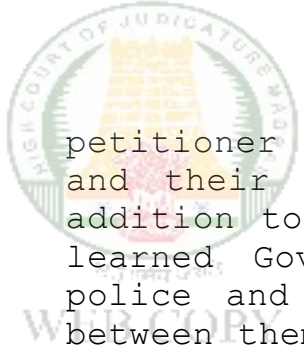
This petition has been filed to call for the records relating to Crime No.15 of 2016, dated 10.06.2016, on the file of the Inspector of Police, All Women Police Station, Ramanathapuram, and quash the same.

2.Heard the learned Counsel for the petitioner, the learned Government Advocate (Crl. Side) appearing for the first respondent.

3.Based on the complaint given by the second respondent/defacto complainant, a case has been registered against the petitioner in Crime No.15 of 2016 for the offences under Sections 417 and 376(2)(n) of IPC., on the file of the first respondent police.

4.According to the second respondent, she is aged about 25 years and she is working as a Police Constable in Armed Reserve in Ramanathapuram. The Petitioner, who is also working in the Armed Reserve as a Constable by giving a false promissory of marrying her had physical relationship, but subsequently refused to marry her.

5.When the matter was called on 11.11.2016, both the



petitioner as well as the second respondent are 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 and they categorically made a statement that the dispute between them have been settled amicably. Now the petitioner and the defacto complainant got married and living together as husband and wife.

6. In the case of :Abhishek Gupta Vs. State of U.P. (2014) 9 ADJ 683: (2015) 1 DMC 228, the Division Bench of Allahabad High Court has quashed the criminal case filed for the offence under section 376 IPC. The relevant portion of the order is extracted hereunder:-

"10. Here in the case in hand there is mention of Section 376 & 377 IPC alongwith Sections 498A, 323, 511, 354, 120B, 506, 504 IPC and Section 3 read with Section 4 of the Domestic Violence Act. The picture that is so emerging in the present case is that **Abhishek Gupta** (petitioner) and respondent No. 3 Smt. Ragini **Gupta** have entered into matrimonial alliance with each other and thereafter some differences have arrived between the parties and the same has resulted in lodging of FIR on 5.8.2014, and before any investigation could be carried out to bring quietus to dispute, parties have come forward to settle the dispute and in the said direction, giving reference of settlement arrived at inter se parties, Ragini has not supported the case of prosecution, and report in favour of petitioner under Section 169 Cr.P.C. has been send separately, and now parties are before this Court and now respondent No. 3 Smt. Ragini Gupta has joined petitioner for quashing of proceedings as per the arrangement arrived at.

11. Once such factual situation is emerging alongwith settlement in question, the fate of prosecution case is written on the wall, as there are virtually no chances of witness coming forward to support the prosecution case and chances of conviction also being completely remote. Once immediate reason for lodging FIR has been matrimonial discord and relationship has been given slant of an offence under Section 376 & 377 IPC, and settlement has been arrived at in between parties, and this Court being fully conscious of the fact, that entire exercise henceforth would be of no consequence and contrarily would disturb harmony and peace



inter-se parties, and by remotest chance would never end up in conviction, and, accordingly, keeping in view such attending and inseparable circumstances, in the ends of justice and to prevent the abuse of process of law, we are of the view that in peculiar facts of the case, there being hardly any chance of offender being punished, the FIR in question deserves to be quashed to bring quietus to the dispute and, accordingly, the entire proceedings so undertaken pursuant to F.I.R. Dated 5.8.2014, lodged by respondent No. 3, in Case Crime No. 59 of 2014 under Sections 498A, 323, 377, 376, 511, 354, 120B, 506, 504 IP C and 3 read with Section 4 of the Domestic Violence Act, P.S. Mahila Thana, District Kanpur Nagar, stands quashed. Writ petition is allowed. No order as to cost."

7.They also filed a memo of compromise dated 08.11.2016, duly signed by both parties and counter signed by their respective Counsel. They would also further submit that they are willing to donate Rs.50,000/- to the Government Girl's Higher Secondary School, Ulaganeri, Madurai.

8.In view of the above, this Court permitted the petitioner to pay Rs.50,000/- to the Government Girl's Higher Secondary School, Ulaganeri, Madurai and the appearance of the parties is dispensed with. When the matter is taken up for hearing today, the cost memo has been filed by the learned counsel for the petitioner.

9. In the case on hand, both the accused and the defacto complainant are major and the main allegation is that as per the promise, the accused refused to marry the defacto complainant. The memo of compromise and the statement of the second respondent would show that after registration of this case marriage was solemnized and they live together happily. In the light of judgment referred supra and the statements made by the parties and the compromise memo filed by them, no fruitful purpose will be achieved to proceed further in this matter. Hence, in the interest of justice, the F.I.R. is liable to be quashed.

10.In such view of the matter, the Criminal Original Petition is allowed and the entire proceedings in Crime No.15 of 2016 for the offences under Sections 417 and 376(2)(n) of IPC., on the file of the first respondent police, is quashed.

Sd/-

Assistant Registrar(CS-I)

<https://hcservices.ecourts.gov.in/hcservices/>

/True Copy/

Sub Assistant Registrar



To

1.The Inspector of Police,
All Women Police Station,
Ramanathapuram.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD) No.21473 of 2016
15.11.2016

PJL

SVA/BS/10.05.2017/SAR4/4P/3C