



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P(MD)No.3764 of 2016

and

Crl.M.P(MD)No.1897 of 2016

S.Muruganandam

...Petitioner/Sole accused

-vs-

1.The Inspector of Police,
All Women Police Station,
Vadamadurai,
Dindigul District.

2.R.Meena

... Respondents/Complainants

Prayer: Petition filed under Section 482 of Code of Criminal Procedure praying to call for the records relating to Crime No.29 of 2015 on the file of the Inspector of Police, All Women Police Station, Vadamadurai, Dindigul District, the Respondent No.1 herein and quash the same.

For Petitioner	:	Mr.Y.Prakash
For R1	:	Mr.A.P.Balasubramani Govt. Advocate (Crl.Side).
For R2	:	M/s.R.Meena (Appeared in person)

O R D E R

Invoking the inherent power of this Court, 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. It is true that 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.

Brief Facts:

2.Based on the complaint of the second respondent/de facto complainant, a case has been registered in Crime No.29 of 2015 on the file of the first respondent, under Sections 417, 506(i) IPC and Section 4 of TNPWH Act. The sum and substance of the complaint is that based on the assurance given by the petitioner, that he would marry the de facto complainant, she was having sexual relationship with the petitioner and later on the accused refused to marry her.

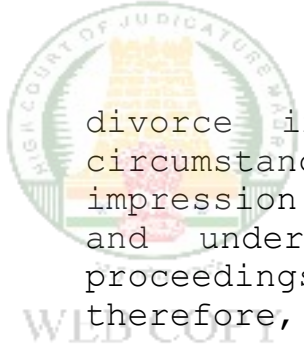


3. Originally, the Criminal Original Petition was filed to quash the proceedings in Crime No.29 of 2015 and on 03.03.2016, it was represented on the side of the first respondent that already charge sheet has been filed and recording the said submission, the Criminal Original Petition was closed.

4. Even though, it was represented that charge sheet was already filed before the learned Judicial Magistrate, Vadamadurai, the learned counsel for the petitioner would submit that when a copy application was filed before the learned District Munsif cum Judicial Magistrate, Vadasandur, on 11.03.2016 the same was returned with an endorsement that no charge sheet has been received from the first respondent. Therefore, the learned counsel for the petitioner seeks quashment of the proceedings in Crime No.29 of 2015 pending on the file of the first respondent police.

5. Having regard to the seriousness and nature of the allegation made, the second respondent/de facto complainant was directed to be present before this Court and accordingly she was present. On enquiries, she would submit that her husband name is Gopinath and through whom she has got two children, aged about 9 years and 6 years respectively. It is also specifically admitted by her that she has no relationship whatsoever with the petitioner before her marriage. In the light of the statement made supra, the point for consideration is whether the second respondent could have believed the statement of accused that he would marry her and had the sexual relationship on the basis of that expectation. Thus, this quash petition has to be considered in the light of the facts and circumstances revealed by the 2nd respondent.

6. Contending that the version of the 2nd respondent has to be believed, the learned counsel for the petitioner would submit that even at that time, when the bail application was moved before the concerned Court, the defacto complainant appeared and submitted that she was entertaining a false hope that the petitioner would marry her and that there was no express promise on the part of the petitioner to marry her. A perusal of the bail order dated 10.12.2015 passed by the learned District Munsif cum Judicial Magistrate, Vadasandur would show that the de facto complainant had appeared in person before the Court and submitted that she was not willing to prosecute the complaint and that out of mistaken belief, she laid a false complaint against the petitioner herein. In order to verify the said statement, this Court ordered personal appearance of the second respondent/de facto complainant before this Court and she has appeared before this Court and stated that she had relationship with the petitioner only after her marriage; <https://www.ecourts.gov.in/services> legally wedded wife of one Gopinath, it is not known under what circumstances she expected the petitioner to marry her. It is not her case that she has obtained an order of



divorce in respect of her first marriage. Under the said circumstances, her statement that she was under the mistaken impression that the petitioner would marry her, must be correct and under the said circumstances, the continuance of the proceedings would amount to abuse of the process of Court and therefore, it is liable to be quashed.

7. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.29 of 2015 dated 10.12.2015 on the file of the 1st respondent police in respect of the petitioner is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1. The Inspector of Police,
All Women Police Station,
Vadamadurai,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.Y.PRAKASH, Advocate, SR.No. 47914

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