



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.03.2016**

CORAM:

THE HONOURABLE Mr.JUSTICE **P.N.PRAKASH**

CRL.O.P. (MD) .No.5166 of 2016

Seethai : Petitioner/Accused No.4

Vs.

1.The State rep. By
The Inspector of Police,
Thogamalai Police Station,
Karur District.
(Crime No.222 of 2016)

:Respondent/Complainant

2.Maruthammal

: Respondent/Defacto
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records in P.R.C.No.4 of 2016 on the file of the learned Judicial Magistrate No.I, Kulithalai, Karur District and quash the same.

For Petitioner : Mr.A.Uthayakumar
For R1 : Mrs.S.Prabha
Government Advocate (Crl.Side)

ORDER

The petitioner has come forward with this petition under Section 482 of Code of Criminal Procedure, to quash the proceedings in P.R.C. No.4 of 2016 on the file of the learned Judicial Magistrate No.I, Kulithalai, Karur District.

2. Heard Mr.A.Uthayakumar, learned counsel appearing for the petitioner and Mrs.S.Prabha, learned Government Advocate (Crl.side) appearing for the first respondent.

3. It is seen that on a complaint lodged by one Maruthammal, the respondent police registered a case in Crime No.222 of 2013 on 23.08.2013 under Sections 417, 376 and 314 of IPC against one Sudarsan-A1 and Boominathan-A2.

4. It is the case of the defacto complainant that she had a daughter by name Sakunthala and that one Sudarsan-A1 promised to marry the said Sakunthala and had sexual intercourse with her, on account of which, Sakunthala became pregnant. On coming to know of



the same, Sudharsan along with Sakunthala went to Boominathan Hospital, that is run by Boominathan-A2 for the purpose of termination of pregnancy. During the procedure, Sakunthala developed serious complications and therefore, she was shifted to the Government Hospital, Karur and on the way, she died. Hence, the respondent police registered a case on the complaint given by Maruthammal as aforesaid.

5. The first accused-Sudarsan was charged for commission of offences under Sections 417, 376 IPC and the second accused-Doctor Boominathan was charged for commission of offence under Section 314 IPC.

6. While so, Dr.Boominathan and the defacto complainant admitted to have arrived at a settlement on 06.11.2015, pursuant to which, a petition in Crl.O.P.(MD) No. 17704 of 2015 was filed for quashing FIR on the ground that the parties have arrived at settlement. This Court allowed Crl.O.P.(MD) No.17704 of 2015 on 20.11.2015 and quashed the FIR based on the compromise memo as against Boominathan-A2 only.

7. The petitioner was working in Panjampatti Primary Health Centre and she was also employed in Boominathan Hospital after her duty hours as a part time nurse. The name of the petitioner does not figure in the FIR. However, after completion of investigation, the police arrested the petitioner and she was released on 06.02.2016, which is after the quashment of the FIR against Boominathan on 20.11.2015 by this Court. On account of the arrest, the petitioner was suspended from service. Now, the police have filed a final report against the petitioner and the same was taken on file in P.R.C.No.4 of 2016 on the file of the learned Judicial Magistrate No.I, Kulithalai.

8. In the considered opinion of this Court, it is an abuse of law and travesty of justice if the prosecution against the petitioner is allowed to proceed after the prosecution has been quashed against the said Boominathan-A2, who had performed the procedure on the deceased Sakunthala. Hence, the entire proceedings in P.R.C.No.4 of 2016 as against this petitioner is hereby quashed.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected M.Ps are closed.

Sd/
Assistant Registrar (AE)

/True Copy/



To,

1.The Inspector of Police,Thogamalai Police Station,Karur District.

2.The Judicial Magistrate No.1, Kulithalai, Karur District.

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

+Three CC to Mr.A.Uthayakumar, Advocate in SR.No.16871,16967,

CN/SKN-SK/31.03.2016/3P-7C

**Order made in
CRL.O.P. (MD) .No.5166 of 2016**