



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.06.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
Crl.O.P.(MD) No.9213 of 2016

WEB COPY

J.Ramaraj

...Petitioner/Sole Accused

-vs-

1. The State
Rep. by The Inspector of Police,
Keeranoor Police Station,
Keeranoor,
Palani Taluk,
Dindigul District.
(Crime No.124/2008)

... 1st Respondent/Complainant

2. M.Nagamani @ Nagaveni

...2nd Respondent/Defacto
Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to quash the charge sheet in Sessions Case No.148 of 2009 pending on the file of the Mahila Court, Dindigul, Dindigul District.

For Petitioner	:	Mr.D.Selvaraj
For R1	:	Mr.K.V.Rajarajan Govt. Advocate (Crl.Side)
For R2	:	Mr.T.Senthil Kumar

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.124 of 2008 has been registered under Sections 307 and 379 (N.P.) of IPC by the 1st respondent against the petitioner. After completion of the investigation, the Investigating Officer has filed a charge sheet before the learned Mahila Court, Dindigul, Dindigul District, which was taken cognizance by the Sessions Judge in S.C.No.148 of 2009.

3. The case of the prosecution is that the petitioner's wife <https://hcservices.equinox.gov.in/hcservices> transacted with the de-facto complainant viz., Nagamani @ Nagaveni; that in the said transaction, the petitioner's wife had to pay a sum of Rs.1,80,000/- for which, the



petitioner is stated to have issued a cheque on 26.04.2008; that the de-facto complainant along with her sister presented the cheque in the bank and after presenting the same, they were returning home and on coming to know of such presentation, the petitioner, being annoyed by the act, came behind the vehicle of the de-facto complainant and attacked the de-facto complainant and her sister with iron rod and in that process, the petitioner is stated to have taken away the mobile phone of the de-facto complainant.

4. When the matter is taken up for hearing, the petitioner and the second respondent, 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.

5. Learned counsel appearing for the parties filed a joint memo of compromise dated 01.06.2016, duly stating that the parties have arrived at an amicable settlement, under which the second respondent has agreed to withdraw the case in Sessions Case No.148 of 2009 pending on the file of the Mahila Court, Dindigul, Dindigul District.

6. The offence under Section 307 IPC is serious in nature. At the initial stage, cases under Section 307 IPC are being registered, on the mere allegation of the defacto complainant that the accused used threatening words saying that he would do away with the life of the defacto complainant. In some cases, though the case under Section 307 IPC is registered, neither the intention nor the act complained of could establish the offence under Section 307 IPC. The motive for the occurrence, the nature of weapon used, the nature of injury sustained, period of treatment and the conduct of the accused are all critical factors to be considered in deciding whether the offence under Section 307 is made out or not.

6.1. So far as this case is concerned, the de-facto complainant, who is personally present in this Court, herself stated that she has sustained only simple injury and there is no grievous hurt and for the injury, she has taken treatment only for few days. Thus, it is clear that there could be no intention on the part of the accused to kill the defacto complainant; that mere allegation that there was an attempt to do away with the life of the defacto complainant do not constitute the offence under Section 307 IPC and the case under Section 307 IPC has been registered only to threaten the accused.

<https://hcservices.courts.gov.in/hcservices/> initially the case has been registered including the offence under Section 379 (NP) IPC, while filing the charge sheet, the offence under Section 379 (NP) IPC, has been deleted



6.3. In view of the above circumstances, this Court can safely infer that the chances of the defacto complainant deposing against the petitioner 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 the Sessions Case (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 proceedings in Sessions Case No.148 of 2009 pending on the file of the Mahila Court, Dindigul, Dindigul District in respect of the petitioner are hereby quashed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Keeranoor Police Station,
Keeranoor,
Palani Taluk,
Dindigul District.

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

+1cc to M/S.D.Selvaraj, Advocate Sr.No.33691

CrI.O.P.(MD) No.9213 of 2016

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