

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :11.04.2017
CORAM
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
Crl.O.P.No.15319 of 2011
and
M.P.No.1 of 2011

N.T.Gopikrishnan

... Petitioner/A-1

vs.

G.Parvathavarthini

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records in C.C.No.312 of 2005, on the file of the Judicial Magistrate No.VI, Coimbatore, quash the proceedings.

For Petitioner :M/s.C.S.Dhanasekaran

For Respondent :No Appearance

ORDER

This Criminal Original Petition is filed by the petitioner herein to call for records in C.C.No.312 of 2005, on the file of the Judicial Magistrate No.VI, Coimbatore and quash the proceedings.

2. Heard Mr.C.S.Dhanasekaran, learned counsel appearing for the petitioner and perused the materials available on records.

3. The case of the petitioner is that the respondent/wife has filed a case in C.C.No.294 of 2005 on the file of the learned District Munsif cum Judicial Magistrate, Avinashi, against this petitioner, his parents and relatives. The said case was ended in acquittal on 21.01.2008. Therefore, the respondent/wife has filed a private complaint before the Judicial Magistrate No.VI, Coimbatore against the petitioner and his family members and the same was taken on file in C.C.No.312 of 2005. The co-accused have challenged the same by way of filing a petition in Crl.O.P.No.4266 of 2007 to quash the case in C.C.No.312 of 2005. This Court, by order dated 16.12.2008, quashed the case in C.C.No.312 of 2005 on the file of the learned Judicial Magistrate No.VI, Coimbatore, under orders dated 16.12.2008. The relevant portion of the order reads as under:

"3. According to the learned counsel for the petitioners without prima facie case and materials, the respondent herein had filed a complaint on false allegations against all the petitioners and the case was taken on file by the court below. In the said case filed in C.C.No.294 of 2005, husband of the respondent T.Gopikrishnan, first petitioner herein and five others were alone arrayed as accused 1 to 6, however after the trial, the case ended in acquittal as per Judgment dated 21.01.2008. If the respondent is really interested, she could preferred revision against the Judgment of acquittal.

4. According to the learned counsel for the petitioners, in the instant case, C.C.No.312 of 2005, the respondent herein as defacto complainant as raised vague allegations against petitioners 1 to 12, though they are not directly connected with matrimonial life of the respondent and her husband. According to the respondent, her marriage with T.Gopikrishnan, son of the first petitioner herein was solemnized on 25.03.1996 at Coimbatore. The petitioners 2 to 12 are not the family members of the respondent and there is no specific allegation are material as against petitioners 2 to 12, however without any basis, respondent herein filed the complaint against them. The case in C.C.No.294 of 2005 filed against the first petitioner and others was ended in acquittal. Further, the second petitioner Dr.P.Sadasivam, his wife, S.Kamalam and P.Jayasudha have also been arrayed as accused 4, 3 and 5 in the earlier case filed in C.C.No.294 of 2005, which ended in acquittal. Therefore, so far as the above petition are concerned, the criminal proceeding pending against them amounts to double jeopardy and also abuse of process of court. On a perusal of the case records, it is seen that there is no prima facie case made out against the petitioners herein and it is not in dispute that the case in C.C.No.294 of 2005, ended in acquittal. Therefore, the criminal proceeding is liable to be quashed under section 482 of Cr.P.C., as the same is an abuse of process of court.

5. In the result, the Criminal Original Petition is allowed and the Criminal case pending in C.C.No.312 of 2005 on the file of the learned

Judicial Magistrate No.VI, Coimbatore, is quashed. Consequently, connected Miscellaneous Petition is also closed. No order as to costs.

4. Now, the petitioner, who is the husband of the respondent has filed CrI.O.P.No.15319 of 2011 before this Court to quash the case in C.C.No.312 of 2005 on the file of the learned Judicial Magistrate No.VI, Coimbatore, .

5. In the light of the order passed by this Court in CrI.O.P.No.4266 of 2007, dated 16.12.2008, this Court is inclined to quash the C.C.No.312 of 2005 in respect of the first accused/the petitioner herein.

6. Accordingly, the Criminal Original Petition is allowed and the case in C.C.No.312 of 2005 on the file of the Judicial Magistrate No.VI, Coimbatore, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.VI,
Coimbatore.

+1cc to Mr.C.S.Dharmasekaran, Advocate SR.No.21942

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CrI.O.P No.15319 of 2011

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