

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Cr1.O.P.No.6396 of 2018

1.M.Mahendran

2.M.Selvam

3.K.Kamalakannan

4.Durai @ Duraikannan

5.G.Subramani

6.K.Mani

7.C.Boopalan

8.D.Meenakshi Sundaram

9.M.Manimegalai ... Petitioners/Accused
No.1 to 9

Vs.

1.State represented by
The Inspector of Police,
Arcot Town Police Station,
Arcot,
Vellore District.
(Crime No.564 of 2015) ... 1st Respondent/Complainant

2.S.Babu ... 2nd Respondent/Defacto
complainant

3.R.Lakshmi ... 3rd Respondent/Victim

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the case in Crime No.564 of 2015 pending investigation on the file of the first respondent and quash the same.

For Petitioners : Mr.K.G.Senthil Kumar
For Respondent-1 : Mrs.P.Kritika kamal,
Government Advocate (Crl. Side)
For Respondent : Mr.R.Chakkaravarthy
Nos.2 & 3

O R D E R

When the matter came up for hearing today, the second respondent/defacto complainant as well as the third respondent/victim are personally present before this Court and identified themselves. They have also produced their aadhar cards viz., S.Babu/Defacto Complainant - Aadhar Card No.794155895965 and Lakshmi/Victim - Aadhar Card No.926518890283.

2.Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) for the first respondent as well as the learned counsel for the respondents 2 & 3.

3.The learned counsel for the petitioners submitted that pending investigation in Cr.No.564 of 2015 on the file of the first respondent, the respondents 2 & 3 viz., the de-facto complainant as well as the victim Lakshmi and the petitioners have amicably settled the dispute among themselves. Consequently, the de-facto complainant has filed an affidavit dated 25.02.2018 wherein he has stated that the dispute has been amicably settled and he has no objection to quash the proceedings in Cr.No.564 of 2015 on the file of the respondent police.

4.The third respondent/wife of the deceased namely, Lakshmi who had also consumed poison along with the deceased Rajasekar, who survives also filed an affidavit dated 25.02.2018 ratifying the averments made in the affidavit.

5.The learned Government Advocate (Crl. Side) vehemently opposed the petition stating that by taking into account of the seriousness of the offence and in view of Section 306 IPC, the offence is not compoundable.

5.The Hon'ble Supreme Court of India in a judgment in Unnikrishnan @ Unnikuttan Vs. State of Kerala in Crl.MP. No. 18630 of 2016 dated 01.03.2017 has held that even in case where the offences are not compoundable registered under Section 320 Cr.P.C., compounding can be considered in view of the compromise arrived at between the parties. The relevant portion of the judgment is as follows:

"11.What emerges from the above is that even if

an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction.

12. Having regard to the facts of the present case, while taking into account the settlement arrived at between the parties and also considering the affidavits filed before us by each one of the applicants by way of joint application, we allow the application seeking permission to compound the offences."

6. In view of the above observations of the Hon'ble Supreme Court, I am of the considered opinion that the ends of justice would be met by permitting the petitioners to compound the offences in view of the compromise arrived at between parties.

7. Recording the submissions made by the defacto complainant as well as the victim Lakshmi in their affidavits dated 25.02.2018, the investigation in Cr.No.564 of 2015 on the file of the first respondent is quashed. Consequently, the Criminal Original Petition stands allowed. The affidavits dated 25.02.2018 filed by the defacto complainant and the victim Lakshmi shall form part of the order. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nl/dp

To

1. The Inspector of Police,
Arcot Town Police Station,
Arcot,
Vellore District.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.G.Senthilkumar, Advocate, S.R.No.20383

CrI.O.P.No.6396 of 2018

BR(CO)
RRK(20/04/2018)