

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.20631 of 2018  
and Cr1.M.P.Nos.11090 and 11091 of 2018

1. V. Velu  
2. V. Valarmathi  
3. V. Dhanraj  
4. A. Gayathri  
5. R. Vadivelan  
6. D. Veeramuthu  
7. D. Chandru  
8. .... Petitioners

-Vs-

1.State represented by,  
The Inspector of Police,  
V-5, Thirumangalam Police Station,  
Chennai-600 101.  
(Crime No.1570/2012.)  
2. L. Sarala  
3. B. Murali  
.... Respondents

Prayer: Petition filed under Section 482 Criminal Procedure Code to call for record further Proceedings in S.C.No.88 of 2016 on the file of Learned Mahila Court at Chennai pending disposal of the above and quash the same.

For Petitioners :Mr.C.D. Johnson  
For R1 : Ms.M.Prabhavathi,  
Addl. Public Prosecutor.

O R D E R

This petition has been filed to call for the records in S.C.No.88 of 2016 on the file of the Mahila Court at Chennai and quash the same.

2. On 27.06.2012, one Vishalakshi committed self immolation in her residence and she was to rushed to the Kilpauk Medical College Hospital for treatment. On intimation, police came to the hospital and recorded the statement, based on which, a case in Cr.No.1570/2012 under Section 4 of the Tamil Nadu Prohibition

of Harassment of Woman Act, 2002 r/w 506(ii) IPC was registered. After Vishalakshi succumbed to injuries, the case was altered to one under Section 306 IPC. After completing the investigation, the police have filed a charge sheet and the case is now pending trial in S.C.No.88/2016 before the Mahila Court, Chennai for the offence under Section 306 IPC against seven accused, of which, A1 to A4 belong to one family and A5 to A7 were painters, who were engaged by A5 to paint his house.

3. It is the case of the prosecution that the family of the deceased Vishalakshi and the family of Velu [A1] were neighbours in Padikuppam Village, Chennai; there was dispute between them in respect of a certain portion of the common boundary; Balu, the husband of the deceased Vishalakshi filed O.S.No.139/2003 for a declaration, mandatory injunction and recovery of possession from Velu [A1]; the suit was decreed in favour of Balu some time in the year 2011; challenging the judgment and decree, Velu preferred A.S.No.27/2011 before the Sub Court, Poonamalle, which was allowed and the judgment and decree that was passed in favour of Balu was set aside; Balu took the matter on appeal in S.A.No.120/2012 before this Court. It is the case of Velu's family that the disputed property belongs to them and after they succeeded in A.S.27/2011, they took attempts to paint the property and requisitioned the services of A5 to A7.

4. Now, coming to the case of the prosecution in S.C.No.88/2016, it is the case of the police that there was a quarrel between the family members of Velu [A1 to A4], painters [A5 to A7] on one side and the family members of Balu on the other side, on 27.06.2012, in which, it is alleged that Velu and party asserted their rights to go ahead with their painting work and in that process, they had abused Vishalakshi; when Velu and his son had gone to the police station to give complaint on Balu and party, Vishalakshi doused herself in kerosene and immolated herself. It appears that in S.A.No.120/2012, Balu and party and Velu and party arrived at a compromise, under which, Balu and party gave up all their rights in the disputed property in favour of Velu and party and the Memorandum of Compromise dated 16.04.2018 reads as follows:

"a) Both the parties have arrived at the compromise that the disputed portion of the land lying on the Eastern side of the Appellants land viz., East to West 2 feet (From the new building of the Respondent in Anna Street), and North to South on the Eastern side 72 feet in all totaling of 144 square feet lying on the Western side adjacent to the Respondent House has been set free by the Appellants, and the appellants have no claim whatsoever manner 'by them or their heirs', legal representatives or their successors in interest at present or in future.

It is agreed that the Respondent shall demolish any building beyond the above 2 feet projecting into the land of the appellants.

b) It is agreed that the Appellants herein shall not take any further steps prejudicial to the Respondent in S.C.No.88 of 2016 pending on the file of the Honourable Mahila Court, Chennai. It is agreed that the Appellants have no objection for quashing S.C.No.88 of 2016 pending on the file of the Honourable Mahila Court, Chennai and extended their co-operation for the same.

c) For fulfilling the compromise arrived in Clause (a) the Respondent herein has to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as follows:-

i) While at the time of entering into the compromise Memo of sum of Rs.5,00,000/- (Rupees Five Lakhs only) is paid by way of two demand Drafts bearing No.002189 dated 10.04.2018 for Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) drawn on the Tamil Nadu State Apex Co-operative Bank Limited, Moggapair East Branch, Chennai and another Demand Draft No.663449 dated 10.04.2018 for Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand Only) drawn on Indian Bank, Anna Nagar Branch, Chennai 600 040.

ii) The Second part payment of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand only) will be made after 15 days from the date of entering into this compromise Memo.

iii) The Third part payment of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand Only) will be made after quashing of the Criminal Case pending on the file of the learned Mahila Court at Chennai S.C.No.88 of 2016."

4. A charge under Section 306 IPC cannot be quashed just because the parties have arrived at a compromise. However, on facts, this Court finds that Balu and party were only asserting their rights in the disputed property after they had succeeded in A.S.No.27/2011. They had called the painters, viz., A5 to A7 to paint the property and at that time, a quarrel appears to have ensued and in that quarrel, both sides had traded invectives and abuses. This Court does not find sufficient materials to infer that Velu and party had instigated or abetted the commission of suicide by Vishalakshi. During the pendency of the litigations, Balu died leaving behind his children as his heirs. Today, Balu's children, viz. Lakshmi and Balamurali are present. Velu [A1] is also present.

In view of the above, this petition is allowed and the entire prosecution in S.C.No.88/2016 as against all the accused [A1 to A7], is hereby quashed. Connected M.Ps. are closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jrs/gms

To

1. The Inspector of Police, V-5, Thirumangalam Police Station, Chennai-600 101.

2.The Mahila Court at Chennai .

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.C.D.Johnson, Advocate, S.R.No.60814

CrI.O.P.No.16654 of 2018

PA(CO)  
GSP(24/09/2018)



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