

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.10987 of 2018

Kumaresan

... Petitioner/ sole Accused

Vs

1. State represented by
The Inspector of Police,
All Women Police Station,
Omalur Taluk,
Salem District
(Crime No.1 of 2017)

2. Sasikala ... Respondents/ complainant

Prayer:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to P.R.C.No.14 of 2017 on the file of the Judicial Magistrate No.1, Omalur and quash the same.

For Petitioner : Mr.V.Sakkarapani

For R1 : M/s.P.Kritika Kamal
Government Advocate(Crl.side)

For R2 : Mr.K.Balasubramaniam

ORDER

This Criminal Original Petition has been filed under Section 482 Cr.P.C., to call for the records relating to P.R.C.No.14 of 2017 on the file of the Judicial Magistrate No.1, Omalur and quash the same.

2. For the sake of convenience, the parties are referred to by their name.

3. On the complaint lodged by Sasikala, the first respondent police registered a case in Crime No.1 of 2017 on 25.01.2017 and after completing the investigation have filed a final report in PRC.No.14 of 2017 before the Judicial Magistrate No.1, Omalur for the offences under Sections 417, 376, 506(1), 313 IPC and

Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1988 against Kumaresan. This quash application has been filed by Kumaresan for quashing the prosecution on the ground that they have arrived at a compromise.

4. Today, Sasikala, her mother Kamala and Kumaresan are present. Mr.V.Sakkarapani, learned counsel for Kumaresan and Mr.K.Balasubramaniam, learned counsel for Sasikala are also present.

5. Under normal circumstances, a charge under Section 376 I.P.C. cannot be quashed merely on the ground that the parties have arrived at a compromise. However, in this case, it is seen that Sasikala was 25 years old and Kumaresan was 23 years old at the time of occurrence. The specific case of Sasikala is that she was intensively in love with Kumaresan for over six years and that she had consensual sex with Kumaresan. She has also stated that she conceived twice and had undergone abortion. Sasikala has filed an affidavit dated 10.04.2018, wherein, she has stated as follows:

"3. I submit that since I was in love with the petitioner, I have lodged the present complaint with the intention that the petitioner will marry me, after registering of the FIR in Crime No.1 of 2017 also I have approached the petitioner for marrying me, since he has refused to marry me, on the advice of my parents and well wishers and also since my parents are in search of alliance for my marriage, I have decided to withdrew the pending case against the petitioner.

4. I submit that upon advice from the elders and relatives I have decided not proceed further in the above pending case against the petitioner. Since the issue has been settled amicably, I have approached the 1st Respondent intimating the compromise aroused between us and sort for withdrawing my complaint in Crime.No.1 of 2017 dated 25.01.2017, but I was informed by the 1st Respondent that final report have been filed in the above P.R.C.No.14/2017 and therefore we have decided to move this Hon'ble Court for remedy.

5. I submit that myself and the petitioner have entered into a joint compromise that myself and the petitioner undertake and assure that each of them will not lodge any complaint against each other in future.

6. I submit that I am filing this affidavit reporting the compromise and seeking quash of the proceedings in P.R.C.No.14 of 2017 pending on the file of Learned Judicial Magistrate No.1, Omalur as against the petitioner."

6. This Court examined Sasikala in camera and she submitted that she is intending to marry another person and therefore, she does not want this prosecution to continue.

7. In view of the above, this Court is satisfied that this is a fit case in which prosecution can be quashed.

8. Accordingly, in view of the settlement arrived at between the parties, this petition is allowed and the proceedings in PRC.No.14 of 2017 is quashed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.1, Omalur .

2.do-Through-The Chief Judicial Magistrate, Salem.

3.The Inspector of Police,
All Women Police Station,
Omalur Taluk,
Salem District

4.The Public Prosecutor,
High Court, Madras.

+2cc to Mr.V.Sakkarapani, Advocate, S.R.No.26329

Cr1.OP No.10987 of 2018

GJ(CO)

RRK(24/04/2018)