

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P. No.21378 of 2016 and Cr1.M.P. No.9915 of 2016

1 T. Sathish
2 Thangarasu
3 T. Muthu
4 T. Saranya ... Petitioners

vs.

1 State represented by
the Inspector of Police
All Women Police Station
Villianur
Puducherry
2 Asha Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records on the file of the first respondent in connection with S.C. No.34 of 2016 on the file of the Assistant Sessions Judge (Chief Judicial Magistrate Court), Puducherry and quash the same as against the petitioners.

For petitioners :Mr. S. Ambigapathi

For R1 :Mr. M.R. Thangavelu
Addl.Public Prosecutor (Puducherry)

For R2 :Mr. T. Muthukrishnan

ORDER

This Criminal Original Petition has been preferred seeking to call for the records on the file of the first respondent in connection with S.C. No.34 of 2016 on the file of the Assistant Sessions Judge (Chief Judicial Magistrate Court), Puducherry and quash the same as against the petitioners.

2 On the complaint lodged by Asha, the second respondent herein, the first respondent police registered a case in Cr. No.15 of 2015 on 03.11.2015 against the petitioners herein and

one Azhagesan and after completing the investigation, filed a final report against the petitioners/accused for the offences under Sections 417, 376, 420, 294(b) and 506(i) IPC and after committal, the case is now pending before the Assistant Sessions Court (Chief Judicial Magistrate Court), Puducherry in S.C. No.34 of 2016, seeking quashment of which, the accused 1 to 4 have preferred this Criminal Original Petition with the aforesaid prayer.

3 Heard Mr. S. Ambigapathy, learned counsel for the petitioners, Mr.M.R. Thangavelu, learned Additional Public Prosecutor (Puducherry) appearing for the first respondent and Mr.T.Muthukrishnan, learned counsel for the second respondent/de facto complainant.

4 Sathish (A1) and Asha (de facto complainant) are present before this Court and they have filed a joint memorandum of compromise, wherein, it has been stated as under:

"Subsequently, difference of opinion arose between the parties concerned and in the result, the second respondent made a complaint before the first respondent police and filed FIR and subsequent to filing of charge sheet, the above Crl.O.P. has been filed seeking to quash the charge sheet. Stay has also been granted in Crl.M.P. No.9916 of 2016 in Crl.O.P. No.21378 of 2016 on 20.09.2016. After obtaining interim stay, the first petitioner and the second respondent, upon the advice of elders of both the parties, they have married on 29.10.2017 and subsequently, the same was registered at the Joint Sub Registrar No.II, Cuddalore on 01.11.2017 vide Regn. No.1438/2017.

In view of the latest developments, the second respondent intends to withdraw the complaint lodged before the first respondent police. Now both of them living together as husband and wife happily and the second respondent having no objection for quashing the charge sheet in S.C. No.34 of 2016 on the file of the learned Assistant Sessions Judge (Chief Judicial Magistrate Court), Puducherry. The second respondent herein filed a writ petition in W.P. No.3756 of 2016 for quashing the order of women's commission dated 23.10.2015 and the same is pending. The second respondent is also undertake to withdraw the said writ petition, since the matter is settled."

5 Under normal circumstances, this Court will not quash a prosecution under Section 376 IPC as it is a heinous offence. However, in this case, it is the specific case of the second

respondent/de facto complainant that Sathish (A1) was in love with her and on the promise of marrying her, he is said to have had physical relationship with her. At the time when the alleged incident had taken place, the second respondent/de facto complainant was 25 years old and was not a minor and therefore, the POCSO Act has not been clamped on the petitioners/accused.

6 Now, it is seen that Sathish (A.1) has married the second respondent/de facto complainant on 29.10.2017 and their marriage has also been registered on 01.11.2017 before the Joint Sub Registrar No.II, Cuddalore. Further, the second respondent/de facto complainant is in the family way.

In such view of the matter, the proceedings in S.C. No.34 of 2016 on the file of the Assistant Sessions Judge (Chief Judicial Magistrate Court), Puducherry, is quashed and as a sequel, this Criminal Original Petition is allowed. Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Inspector of Police
All Women Police Station
Villianur, Puducherry
- 2 The Assistant Sessions Judge
(Chief Judicial Magistrate Court)
Puducherry
- 3 The Public Prosecutor/Puducherry,
High Court of Madras
Chennai 600 104.

+1cc to M/S.S.Ambigapathi, Advocate Sr.41004

CrI.O.P. No.21378 of 2016

rsk[co]
srg 09/07/2018