

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.28128 of 2018
and Cr1.M.P.Nos.16354 & 16355 of 2018

1.Shanmuga Priya
2.Sathiyamurthy
3.Arockia Dass
4.Kumar

...Petitioners/Accused 1 to 4

Vs.

State by

1.The Inspector of Police,
E-5, Foreshore Estate(Pattinampakkam) Police Station,
Foreshore Estate, Chennai
(Crime No.591/2014) ... Respondent/Complainant

2.Jeya

3.Subramani ...Respondents/Defacto complainants

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the entire records comprised in P.R.C.No.35 of 2018 pending on the file of learned 23rd Metropolitan Magistrate Court, Saidapet at Chennai and quash the same against petitioner/Accused 1 to 4.

For Petitioners : Mr.Vimal B.Crimson

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to quash the proceedings in P.R.C.No.35 of 2018, pending on the file of learned 23rd Metropolitan Magistrate Court, Saidapet.

2 The petitioners have been arrayed as A1 to A4 in the final report filed by the respondent police for an offence under Section 306 of IPC. Initially the FIR was registered under Section 174 of Cr.P.C. and thereafter it was converted under Section 306 IPC. The defacto complainant is the mother and even

during the pendency of the FIR, she filed an affidavit before this Court in a pending proceedings wherein, A1 had sought for quashing the FIR. The relevant portion of the affidavit is extracted hereunder:-

"1.I state that suspecting suicide of my son (late) Mr.Srinivasan and cause thereof, I lodged a complaint with E-%, Pattinampakkam Police. Based on the same, a case was registered in Crime No.591 of 2014 U/s 174 and 306 of IPC.

2.I state the my daughter-in-law Mrs.Shanmugpriya and the wife of one Mr.Sathiyamurthy are teachers. They are working in the same school. They reported to have had some money transactions. There used to be quarrels between my deceased son and his wife i.e.above petitioner, due to some reasons, which I was not aware. Subsequently, due to reported quarrel between my son and the said Mr.Sathyamoorthy, he committed suicide.

3.I state that on the basis of what I heard and was told by neighbours and other relatives, I lodged a complaint with the police. A case was registered and my daughter-in-law Mrs.Shanmugapriya was granted advance bail, in the above case. Initially, I was taking care of the minor children. Subsequently, my grand children are in the care and custody of my daughter-in-law, the above petitioner.

4.As stated above, my daughter-in-law is a teacher and has two children at their tender age, born out of their wedlock. She is residing at Perambur in her sister's house and used to visit us during weekends. I don't find any reason to suspect my daughter-in-law in her conduct. She has also agreed to find some suitable accommodation and join us in Mandaveli. Now, there is a peace and harmony prevails in the family.

5.My daughter-in-law has already become a widow. My grand children have lost their fatherly love, care and protection. In the event of criminal prosecution being launched against her before a court of law, the future of grand children will be affected and ruined. I have therefore agreed to bury the differences and arrived at an amicable settlement. In view of the same, the case in Crime No.591/2014 requires annulment to avoid further harassment and embarrassment to my daughter-in-law.

6.I state that such a course would result in permanent peace and bliss in the family. Hence, I consent and agree that the case in Crime No.591/2014, pending on the file of the respondent police may be quashed, in so far as the petitioner Mrs.Shanmughpriya is concerned.

7.I therefore pray that this Hon'ble Court be pleased to call for the records pertaining impugned FIR in Crime No.591/2014, pending on the file of the 1st respondent's police and quash the same in so far as the petitioner Mrs. Shanmugapriya is concerned."

3 This Court while considering the said consent affidavit, passed an order dated 07.10.2015 in CrI.O.P.No.23711 of 2015 as follows:-

"4.Shanmugapriya has approached this Court to quash the F.I.R., on the ground that her mother-in-law, who is the defacto-complainant and she, have amicably settled their disputes. In the considered opinion of this Court, an F.I.R., cannot be quashed piecemeal. May be, the police may not even array her as an accused in the final report. Hence, the present quash is veru pre-mature. Therefore, this petition is closed with liberty to the petitioner to approach this Court, as and when the final report is filed arraying her as an accused."

4 In spite of the specific stand taken by the defacto complainant, the respondent police has proceeded further to file a final report in this case. The defacto complainant in the mean time has died. The petitioners have challenged the final report filed by the respondent police. The father of the deceased namely Mr.Subramani was present before this Court and he has also taken the same stand taken by his wife, who was the defacto complainant. He categorically stated that the matter has been amicably settled and there is no need to proceed further with the case. A joint Memo of Compromise affidavit has also been filed before this Court.

5 Under such circumstances, no useful purpose will be served in keeping the First Information Report pending. Even though, the offence involved is not compoundable in nature, in the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrat), this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quashes the P.R.C.No.35 of 2018.

6 This Criminal Original Petition stands allowed and as a sequel, the proceedings in P.R.C.No.35 of 2018 on the file of the learned 23rd Metropolitan Magistrate Court, Saidapet, is quashed and the terms of Joint Memo of Compromise shall form part and parcel of this order. Each of the petitioners shall pay a sum of Rs.2,500/- as costs, to the credit of the Chief Justice Relief Fund (payable in Accounts Section of the High Court Registry), within a period of one week from the date of receipt of a copy of this order and file a photocopy of the receipt

along with a memo reporting compliance in the Registry. Consequently, connected miscellaneous petitions are also closed.

* Enclosed xerox copy of the Joint Compromise Memo.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

rpl

To

- 1.The 23rd Metropolitan Magistrate Court,
Saidapet, Chennai.
- 2.The Chief Judicial Magistrate,
Egmore, Chennai.
- 3.The Inspector of Police,
E-5, Foreshore Estate(Pattinampakkam) Police Station,
Foreshore Estate, Chennai
- 4.The Chief Justice Relief,
High Court, Madras.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Vimal B.Crimson, Advocate, S.R.No.83079

Crl.O.P.No.28128 of 2018
and Crl.M.P.Nos.16354 & 16355 of 2018

BS(CO)

rrs 09/01/2019

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