



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P. (MD)No.10001 of 2018

1. Gnanasekaran
2. Panchavarnam
3. Karuppaiah
4. Gunasekaran
5. Eeswari @ Angalaeswari ... Petitioners/Accused No.1 to 5

Vs.

1. The Inspector of Police
Samayanallur Police Station,
Madurai District. ... Respondent/Complainant
2. Pitchai ...2nd Respondent/Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in pursuant to the FIR in Crime No.261 of 2017 on the file of the Inspector of Police, Samayanallur Police Station, Madurai District, dated 31.05.2017 and quash the same.

For Petitioners : Mr.N. Madhava Govindan

For Respondent-1 : Mr.K. Suyambulinga Bharathi
Government Advocate (Criminal Side)

For Respondent-2 : Mr.G. Ramanathan

ORDER

This Criminal Original Petition has been filed to to call for the records in pursuant to the FIR in Crime No.261 of 2017 on the file of the Inspector of Police, Samayanallur Police Station, Madurai District, dated 31.05.2017 and quash the same.

2. This Court on 30.08.2018, taking into consideration, the report received from the Mediation and Conciliation Centre, quashed the First Information Report in Crime No.261 of 2017.



3. Thereafter, the defacto complainant namely Pitchai sent a letter dated 03.09.2018 to this Court stating that he had never consented for the compromise and he had never accepted for the withdrawal of the case.

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4. Based on the letter received from the defacto complainant Pitchai, the matter was listed today under the caption 'for clarification'. The said Pitchai was also directed to appear before the Court.

5. This Court also directed the mediator in whose presence the agreement was signed between the parties also to be present before the Court.

6. The learned Mediator would submit that the parties had deliberations and the mediator also explained the pros and cons in proceeding further with the case and ultimately left it to the decision of the parties to decide whether they are going to agree for settlement. The learned mediator also categorically stated before this Court that there was no compulsion exerted by the mediator to the parties to move for a settlement. The learned counsel for the petitioners and the learned counsel for the second respondent would submit that the defacto complainant did accept for compromise and he is going back on the same after the agreement was reached between the parties. The learned counsel for the petitioners and the learned counsel for the second respondent fairly stated that, if the defacto complainant takes a stand that he did not consent for the agreement, the settlement agreement as well as the orders passed by this Court based on the settlement can be revoked and the parties can be made to face the trial before the competent Court.

7. This Court personally enquired Mr.Pitchai and his wife. Both of them made categorical statement in the open Court that they never consented for compromise and the thumb impression of Pitchai was taken without explaining him the contents of the settlement agreement. The defacto complainant Pitchai also stated that he does not know to read or write English. He is totally unaware about the contents of the settlement agreement.

8. It is seen from the records that the offence involved in this case is under Section 498(A) and 304(B) of IPC. The offence under Section 304(B) is the major offence and under normal circumstances the Court will not quash the First Information Report on the ground of settlement between the parties. Since the wife has died within seven years of the marriage, there is a presumption under Section 113(B) of the Evidence Act regarding the commission of the offence.



9. Taking into consideration, the seriousness of the offence and also the categorical stand taken by the defacto complainant Pitchai, this Court deems it fit to revoke the settlement agreement dated 20.08.2018 and the consequent order dated 30.08.2018 and restores the case to the stage of the First Information Report in Crime No.261 of 2017.

10. There shall be a direction to the District Superintendent of Police, Samayanallur to continue with the investigation and to file a final report as expeditiously as possible.

11. This Criminal Original Petition is disposed of with the above directions.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-III)

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To

1. The District Superintendent of Police,
Samayanallur Police Station,
Madurai District.
2. The Inspector of Police
Samayanallur Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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TR/PM/SAR-III (24.09.2018) 3P 4C