

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.19531 of 2018
and Cr1.M.P.No.10366 of 2018

V.Jayaprakash

...Petitioner/Accused No.1

Vs.

1.The State represented through,
The Inspector of Police,
N-1, Royapuram Police Station,
Chennai - 13.1st Respondent/Complainant

2.Prathima

...2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in FIR Crime No.1011 of 2018 now pending investigation on the file of the first respondent and quash the same.

For Petitioner : Mr.Praveen Alexander

For Respondents

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

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.1011 of 2018 on the file of the first respondent police registered for the offences under Sections 341, 294(b), 323, 506(i) and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

2. It is seen that the defacto complainant/second respondent is the ex-wife of the petitioner herein. The petitioner already filed a divorce petition in O.P.No.1773 of 2017 on the file of the V Additional Family Court, Chennai, in which the petitioner and the defacto complainant filed a joint compromise memo dated 23.02.2018. Accordingly, the Family Court by an order dated 28.02.2018 in O.P.No.1773 of 2017, recorded

the joint compromise memo and dissolved the marriage between the petitioner and the defacto complainant dated 31.10.2008. The relevant portion of the order reads as follows :-

v) The Joint Compromise Memo filed both the parties contains the following terms :-

a) That the respondent shall not claim present or future maintenance from the petitioner.

b) That the respondent shall not claim present or future alimony or property from the petitioner. This is not applicable for children.

c) That the petitioner agrees to withdraw the allegations made against the respondent in O.P.No.1773 of 2017

d) That the respondent has no objections in this Hon'ble Court granting divorce in favour of the petitioner as prayed for.

vi) On the basis of the Joint Compromise Memo and Proof Affidavit filed by the petitioner, the petitioner is entitled to the relief as prayed for. The point is answered accordingly.

In the result, this petition is allowed as per the terms of Joint Compromise Memo and a decree of divorce is passed dissolving the marriage dated 31.10.2008 at Sri Mathuviruchigammal Thirumana Mandapam, Gudalur.

The Joint Compromise Memo filed by the parties shall be treated as part and parcel of the decree. No costs."

3. It is also seen that thereafter the defacto complainant/second respondent lodged complaint as against the petitioner alleging that on 19.06.2018, when the defacto complaint was preceding to the Madras High Court, via Suryanarayana Salai, on her motorcycle bearing registration No. TN01-AB0417, near Esso bus stop, the petitioner and another obstructed her and also scolded with filthy language and threatened with dire consequences.

4. On perusal of records, it shows that on 19.06.2018, the petitioner was in Theni and he was traveling for farm work to Kumily in his vehicle. The learned counsel appearing for the petitioner also produced CCTV footage of Tamil Nadu Check Post at Kumily, showing that the petitioner entered into the check post on 19.06.2018 and came out on 20.06.2018. It is also seen

from the records, the dispute between the petitioner and the defacto complainant entered into compromise in O.P.No.1773 of 2017. Therefore, the present complaint is clear abuse of process of law and it cannot be sustained as against the petitioner. To meet the ends of justice, this Court feels that the FIR cannot be sustained and it is liable to be quashed.

5. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.1011 of 2018 on the file of the first respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1.The Inspector of Police,
N-1, Royapuram Police Station,
Chennai - 13.

2.The Public Prosecutor,
High Court,
Madras.

+2cc to M/S.Praveen Alexander, Advocate Sr.35540

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rsi[co]
srg 23/05/2019

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