

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.06.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.OP No.15672 of 2019
and
Crl.MP Nos.7785 & 7786 of 2019

1.M.Mohan
2.Marappan
3.Saraswathi
4.Sellam
5.Venkatachalam
6.Parvathi
7.Jothi
8.Kottampattian
9.Arukkani
10.Sellappan
11.Thangavelu

... Petitioners/Accused

.Vs.

1. State by
The Inspector of Police,
Senthamangalam Police Station,
Senthamangalam,
Namakkal District.
(Cr.No.1007 of 2004)

...1st respondent/ Complainant

2.Sathya

...2nd respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records concerned in C.C.No.156 of 2011, on the file of the Judicial Magistrate-II, Namakkal, Namakkal District (previously C.C.No.150 of 2005 on the file of the Judicial Magistrate No.I, Namakkal, Namakkal District) and quash the same insofar relates to the petitioners are concerned.

For Petitioner : Mr.C.Prakasam

For R 1 : Mr.M.Mohamed Riyaz, APP
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings pending in C.C.No.156 of 2011, on the file of the learned Judicial Magistrate-II, Namakkal.

2. The de facto Complainant in this case is the wife and the petitioners are the husband and his relatives.

3. It is seen from records that the 2nd respondent had given the complaint in Cr.No.1007 of 2005 before the respondent Police Station and a Final Report also came to be filed in C.C.No.150 of 2005. This Final Report became a subject matter of challenge before this Court in CrI.O.P.No.24582 of 2005. During the pendency of the proceedings, a Joint Affidavit was filed by the 1st petitioner and the 2nd respondent and the relevant portion of the Joint Affidavit is extracted hereunder:

"3. We, de facto complainant state that I have given a complaint before Sendamangalam Police Station on 26.12.2004 and the Sendamangalam Police has registered a case in Crime No.1007/2005 for the offences Under section 120(b), 498-A I.P.C. r/w.114 IPC. 494 r/w 120(b) and 506(ii) of IPC r/w Sec 4 of the Dowry Prohibition Act, r/w Sec.34 of IPC against petitioner M.Mohan, Son of Marappan, Nallipalayam, (2) Marappan, Son of Palaniyandi Gounder, Nallipalayam, (3) Saraswathi, Wife of Marappa Gounder, Nallipalayam, (4) Sellam, Wife of Venkatachalam, Nallipalayam, (5) Venkatachalam, Son of Ramasamy Gounder (6) Parvathi, Wife of Mohan, Anjur, Mohanur, (7) Jothi, wife of sellappan, Ariyur, Mohanur (8) Kottaputtiya @ Sellappan, Son of Sellappa Gounder, Ariyur, Mohanur, (9) Arukkani, wife of Sellappan, Ariyur, Mohanur, (10) Sellappan, Son of Muthusamy, Ariyur, Mohanur, (11) Thangavel, Son of Sellappa Gounder, Ariyur, Mohanur. Then subsequently the Sendamangalam Police has investigated the case and submitted the final report against my husband Mohan and others and same is pending on the file of Judicial Magistrate No.I, Namakkal in C.C.No.150 of 2005.

4. Now, we have comprised the case each other. Already the Hon'ble Sub-Judge, Namakkal was pleased to grant the divorce decree of dissolution of the marriage between myself and my husband in H.M.O.P.No.231/2004 on 06.10.2005. Then subsequently I de facto complainant have received Rs.35,000/- (Rupees Thirty Five thousand only) from my husband Mohan/petitioner and I have executed the release deed relinquishing my right of future maintenance and the same was registered as Document No.374/2008 by the Sub-Registrar No.I, Namakkal on 28.03.2008.

5. Now, I under de facto complainant understand that my husband Mr.Mohan has filed a petition before the Hon'ble High Court of Judicature at Madras to quash the case pending in this Hon'ble Court under Section 482 of Cr.P.C.and the same is pending Crl.O.P.No.24582/2005.

6. I de facto complainant truly state that I am not in a position to appear personally in this Hon'ble Court on 27.08.2008 and also for another period of 30 days from this date since I am suffering from Rhrumatic trouble to my legs and due to cessarian delivery to me some two months before. I state that I am producing Medical certificate also to the above said effect.

7. Therefore it is respectfully prayed that this Hon'ble Court may be pleased to accept my joint compromise affidavit by dispensing with my personal appearance in this Hon'ble Court due to reasons shown in para No.6 where by declare me exparty, thereby quash the case filed by accused in this Hon'ble Court as Crl.O.P.No.24582/2005 thereby render justice."

4. Apart from the Joint Affidavit, the 2nd respondent had also filed an Independent Affidavit to the effect that the proceedings can be quashed in view of the dissolution of the marriage and receipt of the permanent maintenance amount from the 1st petitioner.

5. Recording the Joint Compromise Affidavit and the Individual Affidavit filed by the 2nd respondent, this Court had disposed of Crl.O.P.No.24582 of 2005 by an order dated 18.12.2008.

6. It is further seen from records that the proceedings in C.C.No.150 of 2005 was transferred to Judicial Magistrate No.II, Namakkal and re numbered as C.C.No.156 of 2011. In spite of the compromise between the parties, summon is being issued to the petitioners and the proceedings are kept pending before the Court below. Therefore, the present petition has been filed seeking to quash the proceedings in C.C.No.156 of 2011, on the file of the learned Judicial Magistrate No.II, Namakkal.

7. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the 1st respondent.

8. This Court is of the considered view that no notice is required to be sent to the 2nd respondent, in view of the fact that the 2nd respondent has already filed an affidavit before this Court in CrI.O.P.No.24582 of 2005, stating that the matter has been compromised between the parties and the proceedings can be quashed.

9. Taking into consideration the facts and circumstances of the case no useful purpose will be served by keeping the proceedings pending in C.C.No.156 of 2011. The pendency of the case is an abuse of process of Court and the same requires interference of this Court under Section 482 of Cr.P.C.

In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.156 of 2011, on the file of the learned Judicial Magistrate-II, Namakkal, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

KP

To

1. Judicial Magistrate Court No.II,
Judicial Magistrate-II,
Namakkal, Namakkal District
2. The Inspector of Police,
Senthamangalam Police Station,
Senthamangalam,
Namakkal District.

3.The Public Prosecutor,
High Court of Madras,
Madras.

+2cc to Mr.C.Prakasam, Advocate, S.R.No.52473

CrI.O.P. No.15672 of 2019

NR(27/06/2019)



WEB COPY