

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.22804 of 2019 and
Crl.M.P.Nos.11913 & 11914 of 2019

S.Kandasamy

... Petitioner

-vs-

1.The Inspector of Police,
Mangalamedu Police Station,
Perambalur District.
(Crime No.402 of 2013).

2.Poonkuzhali

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to P.R.C.No.42 of 2014 on the file of Judicial Magistrate Court, Perambalur and to quash the same and to allow the above Criminal Original Petition.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.M.Mohamed Riyaz (for R1)
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in P.R.C.No.42 of 2014, pending on the file of the Judicial Magistrate Court, Perambalur.

2.The respondent police registered an FIR in Crime No.402 of 2013, based on the complaint given by the 2nd respondent for an offence under Sections 294(b) and 376 of IPC. After the completion of the investigation, a final report was filed before the Court below. It will be relevant to extract the order passed by the Principal District and Sessions Judge, Perambalur on 15.06.2019:

"Upon perusal of the records it has come to a light that there is no averments or accusation made against the 2nd accused in the final report. In other

words the 2nd accused was not charge sheeted in the above case. Further, as per the allegations only offence U/S.294(b) of IPC alone is made out as against the 2nd accused. The offence U/S.294(b) of IPC is triable by Magistrate. Therefore, the committal proceedings is wrong. The learned Judicial Magistrate, Perambalur is directed to peruse the case records carefully and only after finding that the offence alleged are exclusively triable by Sessions Court he shall commit the same to the Court of Sessions. For the above defect, the committal order is set aside and the case in P.R.C.No.42/2014 is remitted back to the learned Judicial Magistrate, Perambalur for re-consideration."

3.The learned counsel for the petitioner submitted that the only offence that is now alleged against the petitioner is under Section 294(b) of IPC. Even though the committal order was set aside by the Principal District and Sessions Judge, Perambalur and send back to the Court below, nothing has proceeded thereafter. The learned counsel for the petitioner submitted that there was already an affair between the defacto complainant and A1 and even if the case of the prosecution is taken as it is, no offence has been made out under Section 294(b) of IPC.

4.Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

5.Taking into consideration of the facts and circumstances of the case and also of the fact that the Sessions Court has already set aside the committal order in so far as Section 376 of IPC concerned and since this Court does not find material to sustain the offence under Section 294 of IPC, this Court is of the considered view that no useful purpose will be served by keeping the proceedings pending against the petitioner. In fact the continuation of the proceedings against the petitioner will amount to an abuse of process of Court.

6.In the result, the proceedings in P.R.C.No.42 of 2014, on the file of the learned Judicial Magistrate Court, Perambalur, is hereby quashed in so far as the petitioner is concerned. Accordingly this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

vs

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

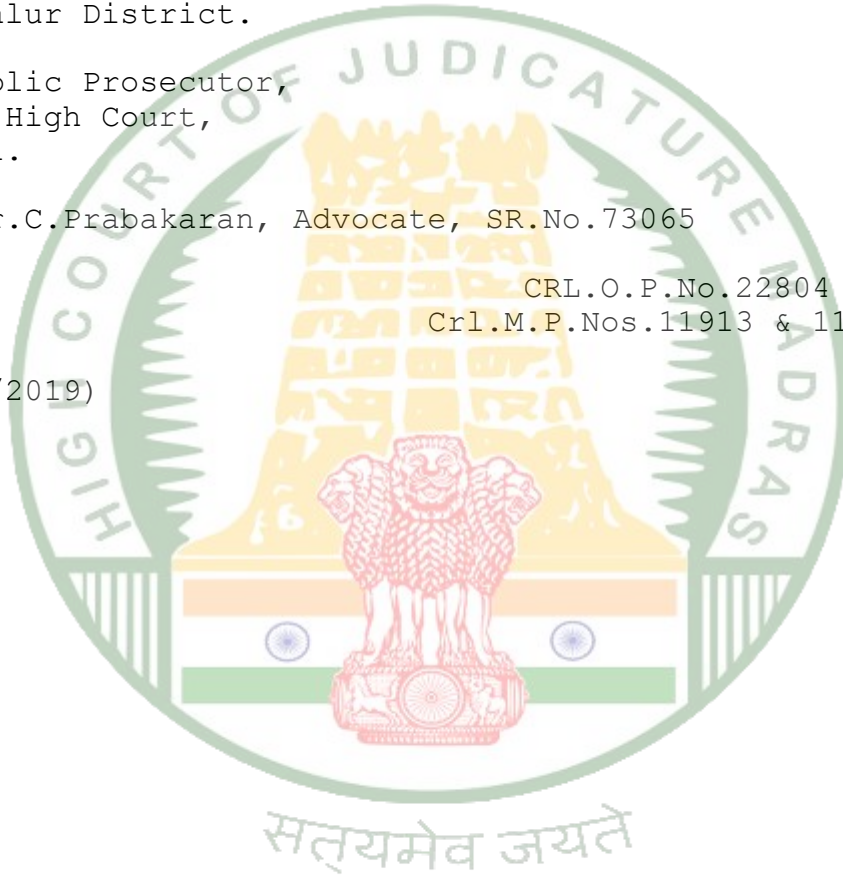
To

1. The Judicial Magistrate Court,
Perambalur.
2. -Do- Thro' The Chief Judicial Magistrate,
Perambalur.
3. The Inspector of Police,
Mangalamedu Police Station,
Perambalur District.
4. The Public Prosecutor,
Madras High Court,
Chennai.

+lcc to Mr.C.Prabakaran, Advocate, SR.No.73065

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Kak(17/09/2019)



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