

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3945 of 2017
and Crl.M.P.No.2923 of 2017

- 1.Manikandan
- 2.Gunasekaran
- 3.Harikrishnan

... Petitioners/Accused

Vs.

1. The Joint Superintendent of Police,
Mayiladuthurai Sub Division,
Mayiladuthurai 609 001,
Nagapattinam District.
 2. The Inspector of Police,
Perambur Police Station,
Nagapattinam District.
 3. Senkuttuvan
 4. Suntharaiya
- ...Respondents/Complainant

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records in SC No.3 of 2017 on the file
of the 1st Additional District and Sessions Judge (PCR) Court,
Thanjavur.

For Petitioners: M/s.J.Milton Arul Rajendran

For RR1 & R2 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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ORDER

This petition has been filed to quash the proceedings in SC No.3 of 2017 on the file of the 1st Additional District and Sessions Judge (PCR) Court, Thanjavur, having been taken cognizance for the offences under Sections 294(b), 341 I.P.C. r/w 3(1) of TNP (PD&L) Act and Section 3(2)(v) of SC/ST (POA) Act

2. The learned counsel appearing for the petitioners submitted that the case in Crime No.315 of 2015 was registered against the petitioners under Sections 294(b), 341 I.P.C. r/w 3 (1) of TNP (PD&L) Act and Section 3(2)(v) of SC/ST (POA) Act, which was taken cognizance in S.C.No.3 of 2017 on the file of the I Additional Sessions Court (PCR), Thanjavur. He further submitted that for the very same occurrence, the second respondent registered another case in Crime.No.317 of 2015 for the offences under Section 294(b), 323, 324, 506(ii) and Section 3 (1)(x) of SC/ST (POA) Act, 1989. When the petitioners are already facing trial in S.C.No.4 of 2017, now they were charged for the above said offences and have been taken cognizance in S.C.No.3 of 2017 on the file of the first Additional Sessions Court, Thanjavur. He further submitted that the third and fourth respondents defacto complainants have filed affidavit separately before this Court stating that they have no objection to quash the proceedings in S.C.No.3 of 2017, and the joint compromise memo has also been filed by the petitioners and the defacto complainants. Therefore, he sought for quashment of the entire proceedings in S.C.No.3 of 2017.

3.It is seen that the third and fourth respondents defacto complainants have filed affidavit separately stating that they have no objection to allow this petition, which are extracted hereunder:

"Affidavit of the third respondent defacto complainant

1. I am the defacto complainant in the above case. Hence I am well acquainted with the facts and circumstances of the case.

2. I state that I have given a complaint against the petitioners the same was registered U/s. 294(b), 341 of I.P.C. and 3 (1) of TNPDL Act in Crime No.315 of 2015 after it is altered and filed final report U/s 294 (b), 341 I.P.C. R/W 3(1) of TNPDL Act and Sec.3(2)(v) of SC/ST (POA) Act. सत्यमेव जयते

3. I state that I am willingly come forward settle the dispute and withdraw all the allegation mentioned in first information report and charge sheet contained averments.

4. I state that I have not willing to contest the above case before S.C.No.3 of 2017 (on the file of the I Additional District and Sessions Judge (PCR) Court, Thanjavur District in Cr.No.315 of 2015 (On the file of the Inspector of Police, Perambur Police Station, Nagapattinam District).

5. I state that I hereby voluntarily withdraw all the allegations against petitioners and made No Objection in order to quash S.C.No.3 of 2017 (On the file of the 1st Additional Sessions Court (PCR) Thanjavur District)."

"Affidavit of the fourth respondent defacto complainant

1. I am the defacto complainant in the above case. Hence I am well acquainted with the facts and circumstances of the case.

2. I state that I have given a complaint against the petitioners the same was registered U/s. 294(b), 341 of I.P.C. and 3 (1) of TNPDL Act in Crime No.315 of 2015 after it is altered and filed final report U/s 294 (b), 341 I.P.C. R/W 3(1) of TNPDL Act and Sec.3(2) (v) of SC/ST (POA) Act.

3. I state that I am willingly come forward settle the dispute and withdraw all the allegation mentioned in first information report and charge sheet contained averments.

4. I state that I have not willing to contest the above case before S.C.No.3 of 2017 (on the file of the I Additional District and Sessions Judge (PCR) Court, Thanjavur District in Cr.No.315 of 2015 (On the file of the Inspector of Police, Perambur Police Station, Nagapattinam District).

5. I state that I hereby voluntarily withdraw all the allegations against petitioners and made No Objection in order to quash S.C.No.3 of 2017 (On the file of the 1st Additional Sessions Court (PCR) Thanjavur District)."

4. Further, to confirm the above affidavits, joint compromise memo was also entered between the petitioners and the defacto complainants, which is also extracted hereunder:

"1. It is submitted that 3rd and 4th respondent's are defacto-complainant they have given a complaint before 2nd respondent. By virtue of their complaints, a case was registered against the petitioner U/s.294(b), 341 of I.P.C. and 3 (1) of TNPDL Act in Crime No.315 of 2015 after altered and filed final report U/s 294(b), 341 of IPC R/W 3(1) of TNP (PD&L) Act and Sec.3 (2) (v) of SC/ST (POA) Act.

2. It is submitted that the petitioners filed quash petition in Crl.OP.No.3945 of 2017 praying that call for the records in S.C.No.3 of 2017 (on the file of the I Additional District and Sessions Judge (PCR) Court, Thanjavur) and quash the same. In the case, Crl.M.P.No.2923/2017 is filed by praying that stay all further proceedings in S.C.No.3 of 2017 on the file of the 1st Additional District and Sessions Judge (PCR) Court, Thanjavur, pending disposal of above Crl.OP.No.3945/2017. This Hon'ble court has granted Interim order in Crl.M.P.No.2923 of 2017.

3. It is submitted that 3rd and 4th defacto complainant willingly come forward settle the dispute and withdraw all the allegation mentioned in first information report and charge sheet contained averments.

4. It is submitted that 3rd and 4th defacto complainant and petitioners are should be made good relationship and being strong brotherhood relationship each other.

5. It is submitted that the petitioners and 2nd and 3rd defacto complainant shall maintain cordial relationship each others.

6. It is submitted that the defacto complainants have not willing to contest the case S.C.No.3 of 2017 (on the file of I Addl.Sessions Court, (PCR) Thanjavur District), in Crl.No.315 of 2015 (On the file of the Inspector of Police, Perambur Police Station, Nagapattinam District and made no objection to quash the S.C.No.3 of 2017 (On the file of I Addl.Sessions Court (PCR) Thanjavur District).

7. Hence both parties come forward to settle the dispute and withdraw all the allegations and counter allegation made against each other."

5.The above joint memo of compromise has been filed before this Court which have been signed by the petitioners and the third and fourth respondents and also by their respective counsel. All the parties are present and identified by their respective counsel and the Police. In order to identify the respective parties, they have also produced the copies of the Aadhaar Card are made part of the record. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. Under such circumstances, no useful purpose will be served in keeping the case in S.C.No.3 of 2017, even though, the offences involved are 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 proceedings in S.C.No.3 of 2017.

7. This Criminal Original Petition stands allowed and as a sequel, the proceedings in S.C.No.3 of 2017, on the file of the I Additional District and Sessions Judge (PCR) Court, Thanjavur 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.10,000/- (Rupees Ten Thousand only), as costs, to Bharathamatha Orphanage (Old Age Home / Charitable Trust / Children's Home), situated at No.7, West Street, Near Murugan Temple, Ettugudi, Thirukkuvalai Taluk, Nagapattinam District 610 204 (Ph:99422 27001) 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 petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pds/lok

To

1. The Joint Superintendent of Police,
Mayiladuthurai Sub Division,
Mayiladuthurai 609 001,
Nagapattinam District.
2. The Inspector of Police,
Perambur Police Station,
Nagapattinam District.
3. The 1st Additional District and
Sessions Judge (PCR) Court,
Thanjavur.
4. The Additional Public Prosecutor,
Hight Court of Madras.

5. The Incharge,
Bharathamatha Orphanage
(Old Age Home / Charitable Trust / Children's Home),
No.7, West Street, Near Murugan Temple,
Ettugudi, Thirukkuvalai Taluk,
Nagapattinam District 610 204
(Ph:99422 27001)

+2cc to M/s.J.Milton Arul Rajendran, Advocate, S.R.No.21260

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and Crl.M.P.No.2923 of 2017

RSI (CO)
CS/19/06/2019



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