



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.O.P. (MD) Nos.3277 and 3278 of 2016
and
Crl.M.P. (MD) .Nos.1668 and 1670 of 2016

Crl.O.P. (MD) .No.3277 of 2016:

1.Shine @ Shinu
2.Lalitha
3.Moni
4.Shyju
5.Karthick
6.Sivaji

.. Petitioners/Accused Nos.1 to 6

Vs.

1.State Rep. By,
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No.303 of 2013)

.. 1st Respondent /Complainant

2.Jayanath

.. 2nd Respondent / De-facto Complainant

3.Jasmin Viji

.. 3rd Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned PRC No.4 of 2015 on the file of the Judicial Magistrate Court No.1, Kuzhithurai, Kanyakumari District and to quash the same.

Crl.O.P. (MD) .No.3278 of 2016:

1.Shinu
2.Lalitha
3.Moni
4.Lakshmi @ Thangalakshmi
5.Mohan
6.Nathiya
7.Rethinam
8.Shyju

.. Petitioners/Accused Nos.1 to 8

Vs.



1.State Rep. By,
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No.758 of 2013)

.. 1st Respondent / Complainant

2.Jayanath

.. 2nd Respondent / De-facto Complainant

3.Jasmin Viji

.. 3rd Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned PRC No.69 of 2015 on the file of the Judicial Magistrate Court No.1, Kuzhithurai, Kanyakumari District and to quash the same.

For Petitioners	: Mr.M.R.Sreenivasan in both CrI.OP's
For 1 st Respondent	: Mr.R.Anandaraj Additional Public Prosecutor
For 2 nd Respondent	: Mr.B.Brijesh Kishore
For 3 rd Respondent	: Mr.M.Karupasamy in both CrI.O.Ps.

COMMON ORDER

These Criminal Original Petitions have been filed by the respective petitioners to quash the proceedings pending against them in P.R.C.No.4 of 2015 and P.R.C.No.69 of 2015 on the file of the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District.

2. The impugned proceedings in both the cases came to be instituted at the instance of the second respondent, owing to a love affair between his minor daughter / the third respondent, namely, Jasmin Viji and the first petitioner, namely, Shine @ Shinu and as the issue involved in both the cases are similar in nature, they are disposed of by way of this common order.

3. When the matter came up for hearing in the last occasion, ie., on 15.03.2019, this Court has passed the following order:

"...

2. The third respondent, one Jasmin Viji had love affair with the first petitioner and she went along with the first petitioner and got married him. During the time of marriage, she was a minor girl and therefore, her father / defacto complainant has filed a complaint as against the petitioners before the respondent police.

3. The respondent police, after investigation, has also filed a final report as against the petitioners before the learned Judicial Magistrate, Kuzhithurai and the same is pending in P.R.C.No.4 of 2015 and P.R.C.No.69 of 2015.



4. It is represented by the learned counsel for the petitioners that the first petitioner as well as the third respondent got married and are living together with their male child and as such, there is no purpose in proceeding with the cases.

5. But the defacto complainant still insists that the case should be proceeded with.

6. At this juncture, the learned counsel for the petitioners intervened and prayed for referring the matter to the Mediation and Conciliation Centre, so as to have some amicable settlement.

7. In view of the same, the Registry is directed to post this matter before the Mediation and Conciliation Centre attached to this Bench on 22.03.2019. Both the parties are directed to appear before the Mediation and Conciliation Centre on the said date without fail.

8. The Mediation and Conciliation Centre shall work out the possibility of mediation and if there is no possibility of mediation, the matter should be referred back to the Court.

9. Interim stay already granted is extended for a period of two weeks."

4. Today, it is reported by the learned Counsel for the respective parties that the issue has been settled before the Mediation Centre and a Mediation report dated 29.03.2019, signed by the first petitioner, second respondent / defacto complainant and third respondent as well as the respective Counsel has also been filed before this Court, wherein the following settlement has been arrived at between the parties:

"6. i) The 1st petitioner, 2nd respondent and 3rd respondent have appeared before the Mediation Centre.

ii) The 2nd respondent / defacto complainant has no objection to allow the Criminal Original Petitions and quash the entire proceedings in P.R.C.No.4/2015 (in CrI.OP(MD) No.3277/2016) and P.R.C.No.69/2015 (in CrI.OP(MD) No.3278/2016). Considering the paramount interest and future of the 3rd respondent/Daughter, on the basis of the compromise arrived between the parties provided the Petitioners 1 to 4 have to give undertaking that they should not take any legal proceedings as against the 2nd respondent in future in this regard.

iii) The petitioners 1 to 4 undertakes to file a undertaking affidavit to that effect for themselves and also on behalf of other petitioners."

5. In pursuance to the aforesaid agreement, the petitioners in both the petitions have filed affidavits of undertaking dated 20.04.2019 and the relevant portion of the affidavits reads as under:



"Cr1.OP (MD) 3277/16 (signed by petitioners 1 to 4):

... 4. We further submit that before the Mediation Centre both parties have appeared and arrived for a compromise and the defacto complainant above Mr.Jayananth considering his daughter's betterment and paramount future interest, consented for allowing the above quash petition on the conditions that we should not make any complaint as against him (the defacto complainant / Mr.Jayananth) on the basis of the above cases and also if any complaint already made as against the defacto complainant, we have to withdraw the same and we have given an undertaking before the Mediation Centre to that effect. On that basis of the undertaking given before the Mediation Centre, we are swearing this affidavit of undertaking as follows:

(a) We undertake that we have not filed any complaint as against the above Mr.Jayananth, the defacto complainant in the above Crime No.303 of 2013.

(b) We also further undertake that we and other petitioners will not give any complaint as against the above Mr.Jayananth in future with relating to the above said issues.

(c) We also further undertake that the other petitioners 5 & 6 also will not give any complaint as against the above Mr.Jayananth in future with relating to the above said issues.

Cr1.OP (MD) 32787/16 (signed by petitioners 1 to 3 & 8):

... 4. We further submit that before the Mediation Centre both parties have appeared and arrived for a compromise and the defacto complainant above Mr.Jayananth considering his daughter's betterment and paramount future interest, consented for allowing the above quash petition on the conditions that we should not make any complaint as against him (the defacto complainant / Mr.Jayananth) on the basis of the above cases and also if any complaint already made as against the defacto complainant, we have to withdraw the same and we have given an undertaking before the Mediation Centre to that effect. On that basis of the undertaking given before the Mediation Centre, we are swearing this affidavit of undertaking as follows:

(a) We undertake that we have not filed any complaint as against the above Mr.Jayananth, the defacto complainant in the above Crime No.758 of 2013.

(b) We also further undertake that we and other petitioners will not give any complaint as against the above Mr.Jayananth in future with relating to the above said issues.

(c) We also further undertake that the other petitioners 4 to 7 also will not give any complaint as against the above Mr.Jayananth in future with relating to the above said issues."



6. The parties to the *lis* appeared before this Court and the learned Additional Public Prosecutor has verified their identity through the first respondent police.

7. In view of the settlement arrived at between the parties, this Court feels that allowing the complaint to proceed would be a futile exercise. In such view of the mater, the proceedings pending as against these petitioners in P.R.C.Nos.4 and 69 of 2015 on the file of the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District are quashed.

8. In the result, both the Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The Judicial Magistrate Court No.1,
Kuzhithurai,
Kanyakumari District.

2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-64097[F] dated
30/04/2019)

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-64290[F] dated
30/04/2019)

Crl.O.P.(MD)Nos.3277 and 3278 of 2016
and
Crl.M.P.(MD) .Nos.1668 and 1670 of 2016
29.04.2019

vsg/gk
JM/29.08.2019/5P/6C