



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD)No.16448 of 2016

and

Crl.M.P(MD) Nos.8057 and 8058 of 2016

WEB COPY

Ambujam Rajapathy

...Petitioner/Accused No.1

vs.

S.A.Kanagasapabathy

...Respondent/Complainant

PRAYER: Criminal Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the private complaint in STC No. 323 of 2010 pending before the learned Judicial Magistrate Court No. II, Nagercoil, filed under sections 341, 307, 294(b), 506(ii) r/w 34 of IPC and quash the same.

For Petitioner : Mr.T. Lajapathi Roy

For respondent : Mr.S.Ajay Justice

ORDER

This petition has been filed to call for the records pertaining to the private complaint in STC No. 323 of 2010 pending before the Learned Judicial Magistrate Court No. II, Nagercoil, filed under sections 341, 307, 294(b), 506(ii) r/w 34 of IPC and quash the same.

2. The petitioner herein and the respondent are not only related by blood and they also have contractual relation as litigant and counsel. Due to default in payment of lawyer fees, misunderstanding has arisen between them leading to the complaint given by the respondent against the petitioner and her husband. The police enquired the matter and found that it is purely a civil dispute and closed the complaint as 'Mistake of Fact'. However the respondent has pursued the matter by filing private complaint. The said complaint was taken on file by the learned Judicial Magistrate No.II, Nagercoil as STC No.323 of 2010. By this time the husband of the petitioner passed away who was arrayed as co-accused . The petitioner has approached this Court invoking Section 482 of Cr.P.C to quash the private complaint in STC No. 323 of 2010 pending on the file of the learned Judicial Magistrate No.II, Nagercoil. This Court on being *prima facie* satisfied, this Court has granted interim stay on 06.09.2016. When the matter came up for final disposal, the learned counsel for the petitioner as well as the respondent reported before this Court pending Criminal Original Petition the petitioner has settled the fees due to the respondent, so the respondent is not interested in pursuing the criminal complaint any further. The respondent herein who is the complainant in STC No. 323 of 2010 has filed the affidavit which reads as under:



" I preferred a complaint before the Judicial Magistrate No.II,Nagercoil against Mrs. Ambujam Rajapathi and her husband Mr.Late Rajapathi for offences under Sections 340,307,294(b) r/w.34 of IPC. Now during the pendency of complaint second accused Mr. Rajapathy expired and presently it is pending against Mrs.Ambujam Rajapathy alone. The first accused is about 80 years old and she had also paid the professional fee for my professional service in STC No. 3680 of 2005 in Judicial Magistrate No.II,Nagercoil which is the bone of contention between us. I have decided not to proceed with the complaint preferred against the accused Mrs.Ambujam Rajapathy unconditionally.

Therefore this Honourble Court may be pleased to pass appropriate orders as prayed by the petitioner".

3. From the reading of the said affidavit this Court finds that the complainant is not interested in pursuing the private complaint pending on the file of the learned Judicial Magistrate No.II, Nagercoil in STC No.323 of 2010. This Court initially though directed the parties to appear before the concerned Magistrate Court and file appropriate petition for withdrawal but the learned counsel for the petitioner submitted that the petitioner herein is now around 80 years old and she is unable to move and it will be difficult for her to appear in person and proceed with the matter before the learned Judicial Magistrate No.II, Nagercoil

4. Taking into account of the fact that the complainant himself is not interested in pursuing the matter and filed sworn affidavit to that effect, so instead of sticking into the formalities and procedure, this Court by invoking its power under Section 482 of Cr.P.C, to secure the ends of justice allows this Criminal Original Petition.

5. In the result, this Criminal Original Petition stands allowed and the proceedings in STC No. 323 of 2010 on the file of the learned Judicial Magistrate No.II, Nagercoil is hereby quashed, inview of the affidavit filed by the complainant. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)



1. The Judicial Magistrate Court No. II, Nagercoil

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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12613[F]dated 20/03/2020)

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