

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.NO.329 OF 2019

AND

CRL.M.P.NO.201 OF 2019

1.Ashok  
2.Chitravathi

... Petitioners/  
Accused 1 & 2

Vs.

1. State rep.by  
The Inspector of Police,  
W-21, All Women Police Station,  
Guindy,  
Chennai.  
(Crime No.3 of 2016)

2. Dr.Amirtha

... Respondents/  
Defacto Complainant

Prayer:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in P.R.C.No.80 of 2018 pending on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr. S.Ashok Kumar, Senior Counsel  
for Mr. M.Muthappan

For Respondents : Mr. N.S. Sugnathan, for R1  
Government Advocate (Crl.Side)  
Mr. K.B. Vivekanandhan, for R2

O R D E R

This petition is filed to call for the records pertaining to the charge sheet in P.R.C.No.80 of 2018 pending on the file

of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2. Based on the complaint, given by one Amirtha, D/o Rajasekar, the respondent-police has registered a case under Sections 417, 420 & 376 IPC as against Ashok, S/o Lakshmanan and Chitravathi, W/o Lakshmanan.

3. The sum and substance of the First Information Report is that the said Amirtha while pursuing her MBBS course at Madurai Medical College, the first accused Ashok befriended her during the month of May 2007 and proposed his love on 03.09.2007. Initially, the defacto complainant declined her proposal but later, she developed interest in him. During the month of November 2007, she along with her classmates went to the house of first accused-Ashok and met second accused-Chitravathi, mother of the first accused who was at that point of time serving as Nurse at Theni Government Hospital.

3(i). In the year 2010, the second accused got transferred and was promoted as Matron at Madurai Medical College. The proximity between the complainant and accused persons become more closure and the complainant started staying in the house of the accused and was attending her class and exams. The second accused used to introduce the complainant as a daughter-in-law and trusting their words, she consented for sexual intercourse with first accused-Ashok. Though, on completion of her MBBS course, she came to Chennai to pursue her entrance exam for PG, in the year 2013 and thereafter, to Delhi in the year 2014, her relationship with Ashok continued and they use to stay in hotel and have sexual relationship.

3(ii). During May 2014, she and first accused went to Chandigarh to take up their PG entrance exam. Thereafter, stayed in hotel and had sexual intercourse. In the complaint, the said Amirtha had listed out the dates and place where she and the first accused stayed together and had sexual relationship, which continued till August 2015. However, the said Ashok started showing interest in another girl by name Aarthi and few other girls and photographs of first accused with those girls in his cellphone. On seeing that she got shocked. She also came to know that the first accused staying with one Aarthi in her apartment, at Gopalapuram. When this was questioned by her, the first accused abused her with filthy language and also teased her saying that she is not a lady of good moral and lost chastity with him. When she complaint the same to the second accused, mother of the first accused, she also abused her and told her that her son will be marrying some one else, which help him to go abroad and settle there.

3(iii). With the above allegations, the complaint given by Amirtha was taken for investigation by the Inspector of Police, All Women Police Station, Guindy in Crime No.3 of 2016 under Sections 417, 420 & 376 IPC. After completion of investigation, recording the statement of witnesses, final report came to be filed on 04.09.2019, before IX Metropolitan Magistrate, Saidapet. On receiving the summons, the petitioners who are arrayed as A1 and A2 had approached this Court to quash the proceedings pending in PRC.No.80 of 2018 on the file of IX Metropolitan Magistrate, Saidapet, Chennai, arising out of Crime No.3 of 2016 on the file of the respondent police. In the petition for quash, it is stated that a final report filed in PRC.No.80 of 2019 is liable to be quashed.

4. In view of the fact that even according to the complaint, there was no element of cheating or intercourse without consent. On complete reading of the complaint, it only indicates that the complainant who had affair with the first accused for several years had broke her relationship/friendship. Being on consensual sex, according to the complaint, the ingredient of Sections 417, 420 & 376 IPC not made out.

5. This Court on 07.01.2019 while considering the quash petition has observed that the petitioners have made out prima facie case, to quash the proceedings and therefore, granted interim stay of all further proceedings.

6. That fact being so, it is now brought to the notice of this Court by way of affidavit filed by Dr.Amirtha, the defacto complainant and memorandum of joint compromise signed by Amirtha-defacto complainant as first party and Ashok and Chitravathi/accused 1 & 2 respectively, as second party. Which the sum and substance indicates that the parties have buried their difference and the defacto complainant is now married to another person and blessed with two children and living peacefully. The first accused is also married and living with his wife peacefully.

7. In the said circumstances, upon advice of elders, neither of them want to pursue the case. In normal circumstances, a case of cognizable offence are not compoundable. Courts rarely interfere at pre-committal stage but here is a case where the matter between two adults, where allegations of cheating and sexual offence made. Later, the defacto complainant herself has now come forward to withdraw from participating the criminal proceeding.

8. That apart, even on reading the complainant, which this Court has narrated above in a nutshell, clearly show that the broken affair of two adults has led to this complaint. As time

passed, both of them have found their own way and living peacefully. They do not want to wash their dirty linen in public by subjecting themselves for examination and cross examination.

9. In the light of the above fact, it is appropriate to give quietus to the matter which could be done by quashing the P.R.C.No.80 of 2018 pending on the file of IX Metropolitan Magistrate, Saidapet, Chennai. Accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AT

To

1. The IX Metropolitan Magistrate, Saidapet, Chennai.
2. The Inspector of Police,  
W-21, All Women Police Station,  
Guindy,  
Chennai.
3. The Public Prosecutor,  
High Court of Madras.

+2ccs to Mr. M.Muthappan, Advocate, S.R.No.37782, 37585  
+1cc to Mr. K.B. Vivekanandhan, Advocate, S.R.No.36980

CrI.O.P.No.329 of 2019 and  
CrI.M.P.No.201 of 2019

VG II(CO)  
PM/12/07/2022