



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.2028 of 2022

and

CRL.M.P (MD) No.1476 of 2022

WEB COPY

1.M.Sundaravel
2.M.Balasubramanian
3.M.Karthiyayini

... Petitioners/Accused

Vs

1.The Inspector of Police,
Central Police Station,
Thoothukudi.
(Crime No.661 of 2013)

2.E.Muthukrishnan

... Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.64 of 2019 on the file of the learned Judicial Magistrate No.II, Thoothukudi and quash the same.

For Petitioners : Mr.H.Arumugam
For Respondents : Mr.B.Thanga Aravindh
Govt. Advocate (Crl. Side) for R1
Mr.R.Rajeshkumar for R2

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.64 of 2019 on the file of the learned Judicial Magistrate No.II, Thoothukudi.

2.The case of the prosecution is that the defacto complainant and the third petitioner are husband and wife. Due to misunderstanding, they separated their matrimonial life in the third month of their marriage and at that time, the third petitioner was pregnant and she later delivered a girl child. Since the accused are not permitting the defacto complainant to see his child, he filed a petition for visitation rights in G.W.O.P.No.41 of 2011 before the I Additional District Court, Tirunelveli and the same was allowed and the defacto complainant was permitted to see his child on second Sunday of every month from 10.00 am to 05.00 pm. When the defacto complainant went to the house of the accused to see his child, the first and second accused abused him and attempted to kill him by riding motor cycle on him and third accused threatened him.



3.The learned counsel for the petitioners would submit that now the matter has been settled between the third petitioner and second respondent and in fact, they do not aware of the pendency of the FIR itself.

4.The learned counsel for the second respondent submitted that though the second respondent settled the issue, the second respondent faces continues threats from the first and second accused. Hence, he prayed for dismissal of this petition.

5.On a perusal of the charge sheet and the statements recorded under Section 161(3) of CrPC, revealed that when the second respondent visited the third petitioner's house to see his child, he was beaten by the first and second accused and they attempted to kill him by riding their motor vehicle. However, now dispute between the husband and wife namely, the second respondent and the third petitioner is settled by way of mutual divorce, which was granted in H.M.O.P.No.69 of 2014, dated 18.03.2015 by the learned Additional Sub Court, Tirunelveli, on the basis of the compromise arrived between the parties. When the dispute is settled, no purpose will be served in keeping the prosecution alive.

6.In view of the settlement between the parties, the charges leveled against the petitioners cannot sustain and it is liable to be quashed. Hence, this criminal original petition is allowed and the proceedings in C.C.No.64 of 2019, on the file of the learned Judicial Magistrate No.II, Thoothukudi is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.II,
Thoothukudi.

2.The Inspector of Police,
Central Police Station,
Thoothukudi.

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

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-12921[F] dated 18/03/2022)

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