



Crl.O.P.(MD)No.11517 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.11517 of 2023

and

Crl.M.P.(MD)No.9081 of 2023

1.Ramachandran

2.Rathika

... Petitioners/A1 and A2

vs.

1.The State Rep. by
The Inspector of Police,
Thallakulam Police Station,
All Women Police Station,
Madurai District.
Crime No.34 of 2018.

... 1st Respondent/Complainant

2.Sharmila

... 2nd Respondent/Defacto Complainant

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the records relating to the charge sheet in C.C.No.550 of 2020 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai and quash the same as illegal insofar as the petitioners' concern.

For Petitioners : Mr.S.Sukumar

For Respondents : Mrs.M.Aasha
Government Advocate (Crl. side) for R1

No Appearance for R2



Crl.O.P.(MD)No.11517 of 2023

ORDER

WEB COPY

The Criminal Original Petition is filed to quash the charge sheet in C.C.No.550 of 2020 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai.

2.The ground on which, the petitioner seeks quashment of the proceedings is that the case arises out of the complaint which is given by the second respondent/wife. The matrimonial proceedings were also pending before the Family Court, Madurai in HMOP No.228 of 2021. In the said case, parties were referred to mediation. In the mediation, the parties arrived at a settlement. As per the settlement, the parties decided to part their ways. The second respondent/defacto complainant also received alimony. In the said agreement, in clause No.7, it has been categorically agreed by the second respondent/defacto complainant that she will not press the allegations and that she will withdraw the case in C.C.No.550 of 2020. The settlement agreement has been acted upon by both the parties and in fact, the Family Court proceedings were disposed of in terms of the settlement agreement. In view thereof, the petitioner seeks quashment of the case.



Crl.O.P.(MD)No.11517 of 2023

WEB COPY

3.The wife is also added as the second respondent. Eventhough notice was served, the second respondent did not appear before this Court. This Court, therefore, directed once again notice to be served about the hearing of this case through the Investigating Officer. By a memo dated 23.10.2024, the Investigating Officer has now placed before this Court that he has once again served the notice on the second respondent. The second respondent has also signed the notice copy and has also written that she has received the copy. Inspite thereof, she has not appeared before this Court.

4.When by solemn mediation agreement, both parties have decided to part as friends and have moved on in life and the wife has specifically undertaken to withdraw the allegations in C.C.No.550 of 2020, by virtue of such compromise, the Court can invoke its extraordinary powers under Section 482 of the Code of Criminal Procedure and quash the proceedings. Eventhough the wife is not present before this Court, the agreement is filed before this Court and inspite of receipt of notice, she has not appeared and chosen to contest otherwise. When the matter has been settled and having undertaken to withdraw the case in C.C.No.550 of 2020,



Crl.O.P.(MD)No.11517 of 2023

WEB COPY

I am of the view that following the dictum of the Hon'ble Supreme Court of India in *B.S.Joshi and ors., Vs. State of Haryana and anr.*, reported in *(2003) 4 SCC 675*, the case needs to be quashed.

5.Accordingly, the Criminal Original Petition is allowed and the case in C.C.No.550 of 2020 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai, shall stands quashed. Consequently, connected miscellaneous petition is closed.

30.10.2024

NCC : Yes / No
sji

To

- 1.The Judicial Magistrate, Additional Mahila Court, Madurai.
- 2.The Inspector of Police,
Thallakulam Police Station,
All Women Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.11517 of 2023



WEB COPY



Crl.O.P.(MD)No.11517 of 2023

D.BHARATHA CHAKRAVARTHY, J.

sjj

Crl.O.P.(MD)No.11517 of 2023

30.10.2024