

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 28-09-2007

CORAM

THE HONOURABLE MR.JUSTICE S.PALANIVELU

CRIMINAL ORIGINAL PETITION No.19247 OF 2007

Sridharan ... Petitioner/Appellant

-vs-

1.The State,
rep.by Inspector of Police,
Yethapor Police Station,
Incharge of Karumanthurai Circle,
Salem District. ... Respondent/Complainant

2.Palaniammal ... Defecto Complainant/
2nd Respondents

Petition under Section 482 of the Code of Criminal
Procedure.

For petitioner : P. Krishnan for Mr.P.Krishnan
for Mr.G.Jeremiah

For respondent 1 : Mr.A.Saravanan,
Govt.Advocate (Criminal Side).

For respondent 2 : Mr.V.Arul

O R D E R

This petition has been filed to call for the records
relating to the proceedings in C.C.No.382 of 2005 on the file of
Judicial Magistrate No.II, Athur, and quash the same.

2. The facts of this case go thus :

Petitioner is accused in Crime No.44 of 2004 on the
file of first respondent police. On the strength of the
complaint lodged by second respondent, a case was registered for
the offence under Section 307 IPC and, subsequently, it was
altered into one under Sections 509 and 506 (ii) IPC. Previously,
there was a case against the petitioner in S.C.No.328 of 2003 on
the file of Mahila Court, Salem, which was registered for the

offences under Sections 376-B and 313 read with 120-B IPC. Second respondent was the complainant in the said complaint also. In the F.I.R. in Crime No.44 of 2004, the complainant alleged that pending the case before the Mahila Court, the petitioner herein, being afraid that she would depose against him, came to her and asked not to depose against him, besides strangulating her by means of a handkerchief and when her brother and father came there, he fled away from the scene. The said case has been taken on file in C.C.No.382 of 2005 on the file of Judicial Magistrate No.II, Athur, which is pending for trial.

3. The subsequent developments in both the cases are very remarkable i.e., both petitioner and second respondent got their marriage celebrated and also registered the same in Namakkal District Registrar's Office on 14.05.2007 and, now, they are leading marital life as husband and wife.

4. In this context, learned counsel for the petitioner would submit that since both the petitioner/accused and the second respondent/de facto complainant got married and they are leading a happy married life, the Court may not allow the proceedings in C.C.No.382 of 2005 to continue and, hence, they be quashed.

5. On the other hand, learned counsel for second respondent produced an affidavit of the latter, in which she was affirmed that she was moving with the petitioner very closely and since the petitioner had sexual intercourse with her frequently and subsequently refused to marry her, in order to compel him to marry her, she preferred both the complaints; now, she does not want to pursue the matters and that she has no objection to allow the Criminal Appeal No.583 of 2005, which is pending before this Court, and to set aside the conviction passed on the petitioner in S.C.No.328 of 2003.

6. Learned counsel for the petitioner placed much reliance upon a decision of the Hon'ble Apex Court in B.S.Joshi and others v. State of Haryana and another, 2003 (3) CTC 54, wherein it has been held as under :

"The observations made by this Court, though in a slightly different context, in G.V.Rao v. L.H.V.Prasad & Ors., 2000 (3) SCC 693, are very apt for determining the approach required to be kept in view in matrimonial dispute by the Courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred

ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and that process the parties lose their "young" days in chasing their "cases" in different Courts."

7. The Supreme Court is of the view that between the spouses, who intend to lead a happy married life, no criminal proceedings should be pending in Courts, which would be prejudicial to their life.

8. Learned counsel for the petitioner also drew attention of this Court to an unreported decision of this Court in Criminal O.P.No.30737 of 2005, dated 09.11.2005, wherein identical circumstances were available. In the said case, this Court, after following the dictum laid down in the aforementioned decision of the Supreme Court, came to a conclusion that for harmonious re-union between the parties, the criminal case between them should be quashed.

9. Pendency of criminal case is certainly a stumbling block for the parties to have their blissful married life. Therefore, it is just and necessary to quash the proceedings in C.C.No.382 of 2005 on the file Judicial Magistrate No.II, Athur, and the same are, accordingly, quashed.

10. Petition is allowed. Consequently, the connected Criminal M.P.Nos.1 and 2 of 2007 are closed.

dixit

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

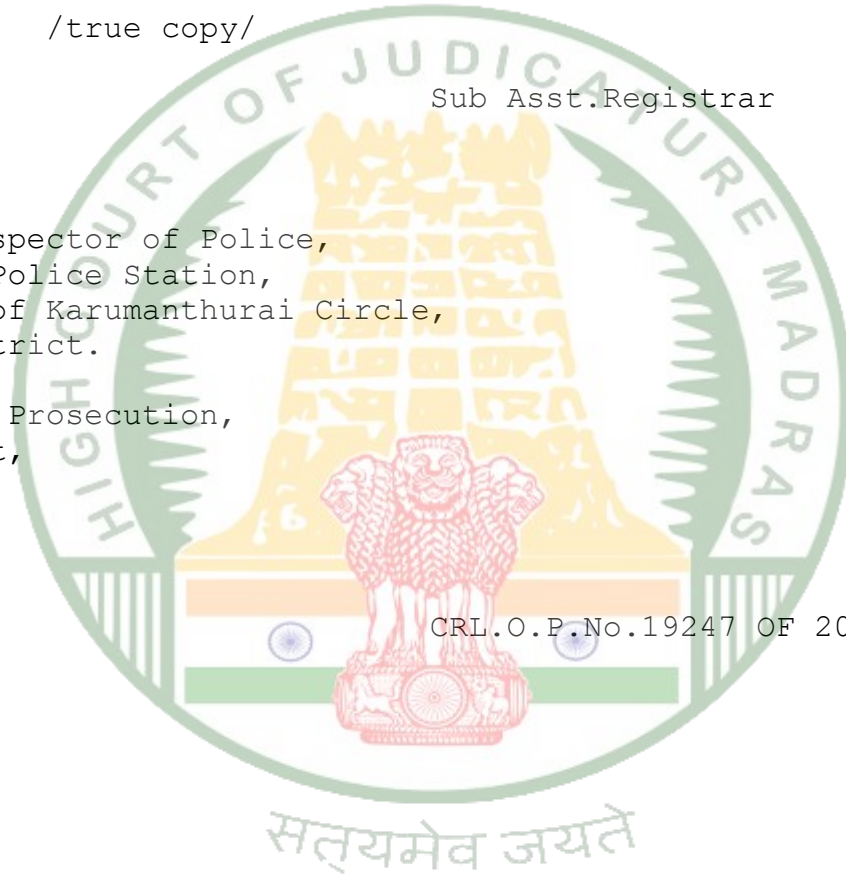
To

1.The State,
rep.by Inspector of Police,
Yethapor Police Station,
Incharge of Karumanthurai Circle,
Salem District.

2.The Public Prosecution,
High Court,
Madras.

AD(CO)
SR/5.10.2007

CRL.O.P.No.19247 OF 2007



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