



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2015

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P.(MD) No.17941 of 2015

1.Mohamed Annas
2.Ayubkhan
3.Kurshid (Minor) ... Petitioners/A1,A2 & A4
rep thro' father Senkiskhan

Vs.

1. State through
The Sub-Inspector of Police,
Kenikarai Police Station,
(Crime No.319 of 2015) ... 1st Respondent /
Complainant

2. Shiek Mohamed ... 2nd Respondent /
Defacto complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure praying to call for the entire records related to Cr.No.319/15 on the file of the 1st respondent / complainant and to quash the entire complaint and all its relevant proceedings pending on the file of the 1st respondent / complainant.

For Petitioners : Mr.R.Babu Jaganath
For R1 : Mrs.S.Prabha
Govt. Advocate (Crl.Side)
For R2 : Mr.M.Sankar

ORDER

This petition has been filed seeking to quash the proceedings in Crime No.319 of 2015 on the file of the 1st respondent.

2. It is seen that the above said case has been registered for the alleged offences under Sections 147, 148, 294(b), 323, 324, 427 & 307 of IPC., against the petitioners / Accused.

3. When the matter is taken up for hearing, the petitioners/Accused and the second respondent/defacto complainant, have appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the

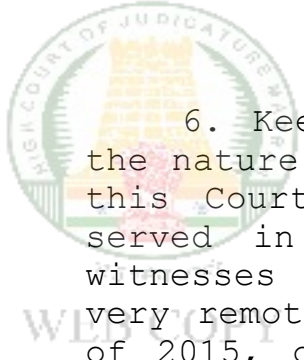


parties by the Government Advocate (Crl.Side) through the respondent Police.

4. The counsel appearing on either side would submit that a Compromise Memo has been filed stating that, since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent has agreed to withdraw the above case.

5. However, to controvert the objection raised by the Government Advocate (Crl.Side) to the effect that since Section 307 IPC is not compoundable in terms of Section 320(9) Cr.P.C., the compromise entered into between the parties cannot be entertained, the contesting parties have cited a judgment of the Hon'ble Supreme Court in the case of **Narinder Singh & others vs. State of Punjab and another (Crl.A.No.686 of 2014), decided on 27.03.2014**, wherein it has been held as under:

"35. We have gone through the FIR as well which was recorded on the basis of statement of the complainant/victim. It gives an indication that the complainant was attacked allegedly by the accused persons because of some previous dispute between the parties, though nature of dispute etc. is not stated in detail. However, a very pertinent statement appears on record viz., "respectable persons have been trying for a compromise up till now, which could not be finalized". This becomes an important aspect. It appears that there have been some disputes which led to the aforesaid purported attack by the accused on the complainant. In this context when we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important consideration. The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. We, taking all these factors into consideration cumulatively, are of the opinion that the compromise between the parties be accepted and the criminal proceedings arising out of FIR No.121 dated 14.7.2010 registered with Police Station LOPOKE, District Amritsar Rural be quashed. We order



6. Keeping in view the above principle and also considering the nature of allegations as well as the joint memo of compromise, this Court is of the opinion that no useful purpose would be served in keeping the matter pending, as the chance of the witnesses coming forward in support of the prosecution case is very remote. Therefore, the entire proceedings in Crime No.319 of 2015, on the file of the first respondent, in so far as the petitioners are concerned, is hereby quashed.

7. Accordingly, these Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The compromise memo shall form part of this order.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.M.SANKAR, ADVOCATE IN SR NO. 69945/15

MPK

TE/NGM-SS/ : 05/01/2016 : 3P/4C

Encl: Xerox Copy of Joint Compromise Memo.

Cr1.O.P.(MD) No.17941 of 2015
07.12.2015