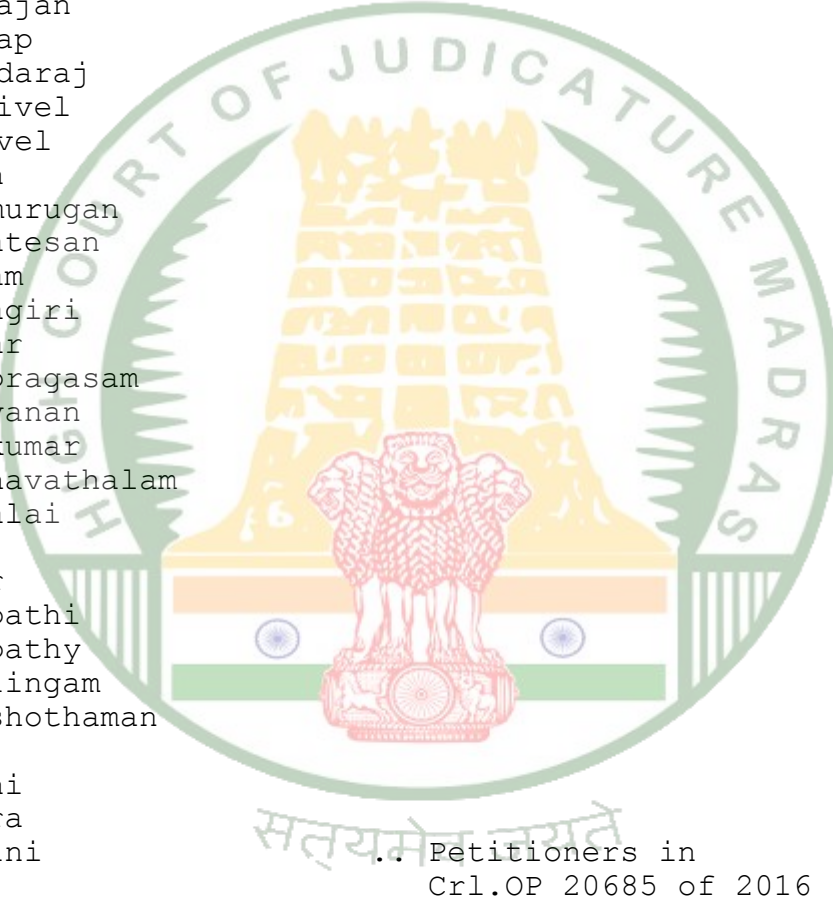


IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 23.09.2016
CORAM:
THE HONOURABLE MR.JUSTICE P.N.PRAKASH
CRL.O.P.Nos.20685 of 2016 & 20742 OF 2013 &
M.P.Nos.1 & 2 of 2013

1. Shanmugam
2. Arunkumar
3. Ramkumar
4. Rajkumar
5. Natarajan
6. Prathap
7. Govindaraj
8. Sakthivel
9. Gnanavel
10. Raman
11. Balamurugan
12. Venkatesan
13. Vikram
14. Arunagiri
15. Sankar
16. Sivapragasam
17. Saravanan
18. Sivakumar
19. Bakthavathalam
20. Elumalai
21. Mani
22. Kumar
23. Pasupathi
24. Ganapathy
25. Rajalingam
26. Purushothaman
27. Jaya
28. Malini
29. Chitra
30. Padmini



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1.Maduraiveeran
2.Kumar
3.Vaithilingam
4.Latchumanan
5.Senthil Murugan
6.Ranjith
7.Ragunath
8.Ganesan
9.Dharmalingam
10.Ramakrishnan
11.Arunachalam
12.Venkatesan
13.Seetha @ Seetharaman
14.Gunasekaran
15.Arul
16.Manigandan
17.Kumar

... Petitioners in
Crl.OP 20742 of 2013

versus

1. The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.

.. Respondent No.1in
Crl.OP 20685 of 2016&
.. Respondent No.2in
Crl.OP 20742 of 2013

3. Maduraiveeran

.. Respondent No.2 in
Crl.OP 20685 of 2016

4. Raman

.. Respondent No.1 in
Crl.OP 20742 of 2013

Prayer in Crl.O.P.No.20685 of 2016: This petition is filed under Section 482 Cr.P.C., praying to call for the records on the file of the learned Judicial Magistrate No.II, Villupuram, Villupuram District in C.C.No.167 of 2012 and quash the same.

Prayer in Crl.O.P.No.20742 of 2013: This petition is filed under Section 482 Cr.P.C., praying to call for the records in PRC 25 of 2013 on the file of the Judicial Magistrate No.II, Villupuram and quash the same.

For Petitioners in
Crl.OP 20685 of 2016 : Mr.D.Dayalan

For Petitioners in

Crl.OP 20742 of 2013 : Mr.E.Kannadasan

For Respondent No.1in

Crl.OP 20685 of 2016&

Respondent No.2in

Crl.OP 20742 of 2013

: Mr.C.Emalias,
Addl.Public Prosecutor

COMMON ORDER

Criminal Original Petition 20685 of 2016 has been filed, praying to call for the records on the file of the learned Judicial Magistrate No.II, Villupuram, Villupuram District in C.C.No.167 of 2012 and quash the same.

2. Criminal Original Petition 20742 of 2013 has been filed, praying to call for the records in PRC 25 of 2013 on the file of the Judicial Magistrate No.II, Villupuram and quash the same.

3. Since these two petitions arise out of the proceedings which were instituted by the respondent police at the instance of the parties, who are the accused and defacto complainant, vice versa, in case and cross-case, these petitions are taken up together and being disposed by this common order.

4. The brief facts, which led to the filing of Crl.O.P.20685 of 2016 are as follows:

4.1 On 16.01.2012 at evening hours, while a temple festival was solemnizing in Iyyanar Temple in Ammanankuppam village, a group clash had taken place, wherein, Shanmugam and 29 others were alleged to have joined together armed with deadly weapons and went to Dharmalingam's house and caused damage to house hold articles and vehicles and thereafter, they proceeded to Arunachalam, Arul and Raguram's house and damaged household articles and after that they also went to Maduraiveeran's (defacto complainant) house and attacked him and also caused damaged to his vehicles and thereby, they caused damaged to the tune of Rs,.14,50,000/-. Based on the complaint lodged by Maduraiveeran, a case was registered in Crime No.38 of 2012 on the file of the respondent police for the offences under Sections 147, 148, 294(b), 323, 324, 506(ii) and 307 IPC. Though Section 307 IPC was included in the FIR, however, in the final report, it was dropped. After investigation, a final report was also filed by the respondent police, which was taken cognizance

for the offences punishable under Sections 147, 148, 294(b), 323, 324, 506(ii) and 307 IPC vide C.C.No.38 of 2012 by the learned Judicial Magistrate No.II, Villupuram. Seeking to quash the same, Shanmugam and 29 others, the petitioners herein, have come forward with Criminal Original Petition 20685 of 2016.

5. The facts, which led to the filing of CrI.O.P.20742 of 2013 are as follows:

5.1 During the same temple festival on 16.1.2012 at about 7.30 p.m., while Raman (defacto complainant) went to the temple to worship and on seeing him, Maduraiveeran and 16 others, joined together armed with deadly weapons, with a common intention to attack him, surrounded him and attacked and caused injuries to him and they also threatened him with dire consequences. On the complaint lodged by Raman, a case in Crime No.39 of 2012 was registered by the respondent police. After investigation, a final report was also filed by the respondent police, which was taken cognizance for the offences punishable under Sections 147, 148, 294(b), 323, 324, 506(ii), 307 r/w 149 and 34 IPC against Maduraiveeran and 16 others, by the learned Judicial Magistrate No.II, Villupuram vide P.R.C.No.25 of 2013. Seeking to quash the same, Maduraiveeran and 16 others, the petitioners herein have come forward with Criminal Original Petition 20742 of 2013.

6. When these petitions are taken up for hearing today, the learned counsel appearing for the petitioners would submit that since the parties have settled the disputes amicably among themselves, they prayed this Court to quash the proceedings pending against them by accepting the compromise memo entered into between the parties. They have also filed a joint compromise memo duly signed by the parties to that effect. The learned counsel also placed reliance upon "Narinder Singh and others versus State of Punjab and another" reported in "2014 CrI.L.J.2436.

7. Learned Additional Public Prosecutor appearing for the State, would vehemently oppose for quashing the proceedings since Section 307 IPC has been invoked against the accused in PRC No.25 of 2013.

8. Mr.S.Murugan, Inspector of Police, Valavanur Police Station, Villupuram District, In-charge of Kandamangalam Police Station is present before this Court.

9. The parties to the compromise memo, are present before this Court. In the said joint compromise memo, signed by the defacto complainants and accused, it is stated as under:

"1. The petitioners/accused and the 1st respondent/defacto complainant submits that they

were compromised by the elders of their family members and Panchayatdars of their village. On their advise, the first respondent/defacto complainant agreed to withdraw his complaint given against the petitioners/accused.

2. The petitioners/accused and the 1st respondent/defacto complainant submits that both were agreed that they were not given trouble each other and they were not given complaint against each other for future in the same issue and they are living peacefully in their village without any disturbance.

3. The petitioners/accused and the 1st respondent/defacto complainant submits that they are voluntarily come forward and filing this joint compromise memo without any coercion or undue influence, on their own accord they are filing this joint compromise memo."

10. Likewise, Raman, defacto complainant in P.R.C.No.25 of 2013, has filed an individual affidavit, wherein, it has been stated as under:

"7. I submit that myself and the petitioners are distant relatives, we are living in the same village and we are not interested to proceed the case further. In the mean time, our relatives convened panchayat, from the panchayath, the panchayathar advised both of us to withdraw out complaints preferred against each other.

I submit that as per the direction and advise of the relatives and the panchayathar, I agreed to withdraw my complaint. Due to the above said reason, I am filing this affidavit through my counsel who is appearing before this Hon'ble Court, to record my submission. Further, there was no coercion or undue influence for filing this affidavit. On my own accord, I am filing this affidavit."

11. It is pertinent to note that against the accused persons, apart from other charges, a charge for the offence punishable under Section 307 IPC has been also been included, which is a non-compoundable one. In 'Narinder Singh case' (cited supra), the Hon'ble Supreme Court has cautioned the Courts not to quash the offence under Section 307 IPC in a routine manner and laid down the principles to follow by the High Courts, in giving adequate treatment to the settlement between the parties and exercising its power under [Section 482](#) of the Code while accepting the settlement and quashing the proceedings or

refusing to accept the settlement with direction to continue with the criminal proceedings.

12. Keeping in mind the above principles, this Court perused the entire case records. In the instant cases, a clash had taken place during a temple festival of the village between two groups in which, the defacto complainants, i.e. Maduraiveeran and Raman had sustained injuries. Both the injured are present before this Court and they submitted that in order to bring peace in the village, they had buried their differences and settled the issues amicably on the intervention of the village panchayatdars.

13. In such view of the matter, since the village panchayatdars intervened in the matter and the parties have not only buried their hatchet, but have decided to live peacefully in future, which becomes an important consideration, this Court is of the view that even if the trial proceeds in the cases, it would be difficult for the prosecution to prove as to who caused the injuries and the chances of conviction, would be very remote. Admittedly, in the instant cases, the evidence is yet to be led in the Courts below and in view of the compromise, there would be no chance of the witnesses coming forward in support of the prosecution case. Therefore, since no fruitful purpose would be served if the prosecution is allowed to proceed further, this Court is of the considered view that it would be unnecessary to drag on the proceedings.

14. Having taken the above said factors into consideration, this Court hereby accepts the compromise entered into between the parties and is inclined to allow the Criminal Original Petitions.

15. In the result, both the Criminal Original Petitions are allowed. Accordingly, the proceedings in C.C.No.167 of 2012 on the file of learned Judicial Magistrate No.II, Villupuram and P.R.C.No.25 of 2013 on the learned Judicial Magistrate No.II, Villupuram, are hereby quashed. Consequently, connected MPs are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

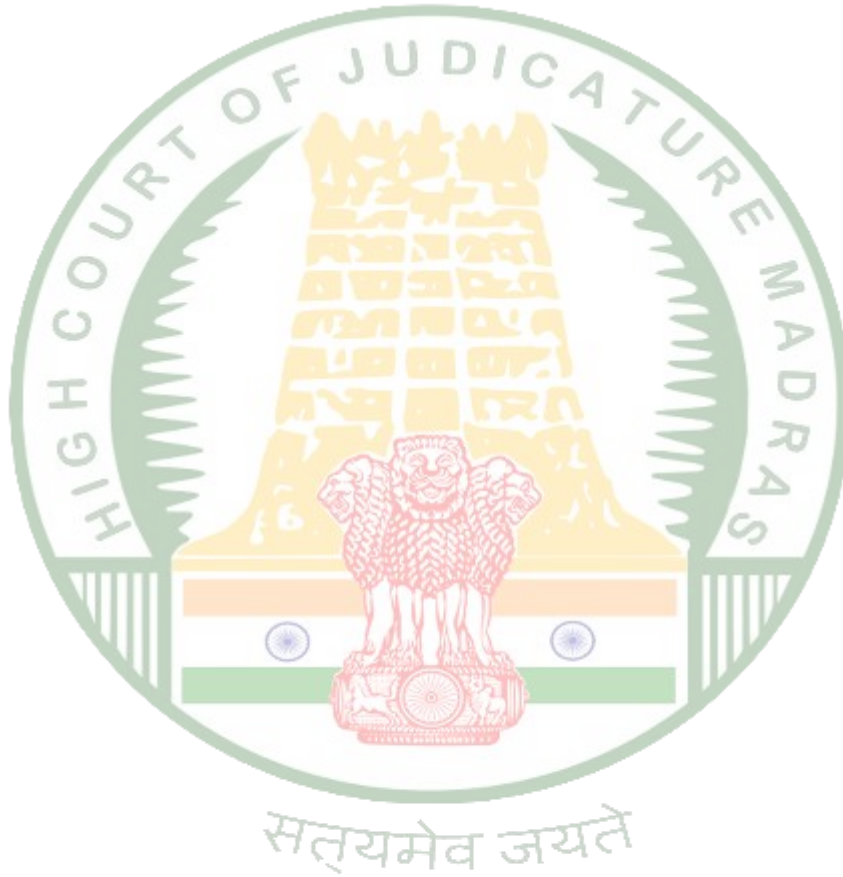
1.The Judicial Maigstrate No.II
Villupuram

2. The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.

3.The Public Prosecutor HighCourt Madras
+1 cc to M/s.E.Kannadasan Advocate sr 54836
+1 cc to Mr.D.Dayalan Advocate sr 54494

CRL.O.P.Nos.20685 of 2016
& 20742 OF 2013

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