



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.629 of 2015

WEB COPY

1.Arun
2.Vishnupriya ..Petitioner/Accused Nos.2 & 3
-vs-

1. State represented by
The Inspector of Police,
All Women Police Station,
Madurai Town,
Madurai District. ..1st Respondent/Complainant

2. Sri Shylaja ..2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No.517/2014 on the file of the Additional Mahila Court - Judicial Magistrate, No.I, Madurai and quash the proceedings therein.

For Petitioner : Mr.S.Ramasamy
For R1 : Mr.S.Prabha
Government Advocate (Crl. side)

O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No.517/2014 on the file of the Additional Mahila Court, Madurai, pursuant to the amicable settlement effected between the parties.

2.It is seen that on the complaint lodged by one Sri Shylaja, the respondent police registered a case in Crime No.15/2013 and on completing the investigation, final report has been filed in C.C.No.517/2014 before the Additional Mahila Court, Judicial Magistrate, No.I, Madurai, for offences under Sections 498(A), 406, 294(b) and 506(i) IPC against (1) Arjun (husband of Sri Shylaja/A1) (2) Arun (brother of Arjun/A2) (3) Vishnupriya (wife of Arun/A3) and (4) Vijaya (mother of Arjun/A4). It is seen that Arjun and Sri Shylaja have arrived at an amicable settlement pursuant to which the proceeding against Arjun (A1) and Vijaya (A4) in C.C.No.517/2014 was quashed by this Court in Crl.O.P.(MD) No.19736 of 2015 on 13.10.2015. It is represented that Arun and Vishnupriya are in the United States of America.

3. Ms.R.Kannathal, Sub Inspector of Police, AWPS, Madurai City, 1st respondent herein is present.

4. The learned Government Advocate (Crl. Side), on instructions, confirms that the prosecution against A1 and A4 has been quashed by this Court and a copy of the order dated 13.10.2015 has also been produced.

5. The counsel appearing on either side filed a joint memo of compromise dated 17.11.2015, duly 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 in C.C.No.517

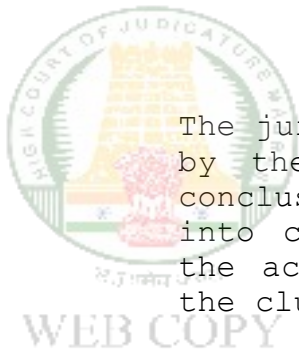
of 2014 pending on the file of the Additional Mahila Court, Madurai. In the compromise memo signed by Sri Shylaja, it is stated as follows:

"4.The petitioners submit that while pending the above quash petition, the 1st and 4th accused has filed a petition for quash before this Court in Crl.O.P.(MD) No.19736 of 2015 on the ground of compromise entered with the 2nd respondent herein and same was came up before this Hon'ble Court on 13.10.2015, this Hon'ble Court was pleased to quash the case in respect of the 1st and 4th accused in this case.

5.The petitioners submit that now at the instance of elders of the petitioners family as well as the 2nd respondent, the case is compromised in between the petitioners and 2nd respondent and at this circumstances, the 2nd respondent do not want to proceed the case further as against the petitioners herein. Now the petitioners are in USA and they could not appear in person before this Hon'ble Court for the purpose of compromise, hence this Hon'ble Court may be dispensed their personal appearance before this Hon'ble Court at the time of hearing of the case."

6. When such a situation arose in similarly placed matters in Crl.O.P. (MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

"11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, any compromise between the victim and the offender in relation to the offences clubbed with Special Enactment, like Arms Act, the Prevention of Corruption Act, TNPPDL Act, TNPID Act or the offences committed by Public Servants while working in that capacity, etc., cannot provide for any basis for quashing criminal proceedings involving such offences. As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves. This Court feels that there cannot be any compromise in respect of the heinous and serious offences of mental depravity and in that case, the Court should be very slow in accepting the compromise. If the compromise is entertained mechanically by the Court, the accused will have the upper hand.



The jurisdiction of this Court may not be allowed to be exploited by the accused, who can well afford to wait for a logical conclusion. The antecedents of the accused have also to be taken into consideration before accepting the memo of compromise and the accused, by means of compromise, cannot try to escape from the clutches of law."

7. Taking note of the judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise dated 17.11.2015, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in C.C.No.517 of 2014 on the file of the Additional Mahila Court, Judicial Magistrate, No.I, Madurai, in respect of the petitioners/accused alone, are hereby quashed.

Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memos dated 17.11.2015 shall form part of this order. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)

Encl: Joint Compromise Memo
vide separate sheet.

To:

1. The Additional Mahila Judge/
Judicial Magistrate No.I, Madurai.
2. The Inspector of Police,
All women Police Station, Madurai Town.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.S.Ramasamy, Advocate in SR.8955

Crl.O.P. (MD) No.629 of 2015
15.02.2016

rr.

PBK/AN-MP/AR-I 01/03/2016 ::3P-5C::