



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P. (MD) No.13376 of 2016

1.Murugesh
2.Sathish
3.Rajkumar

...Petitioners/A1 to A3

-vs-

1.State represented by
The Inspector of Police,
Keelavalavu Police Station,
Madurai District.
(Crime No.390/2015)

...1st Respondent/Complainant

2.Periayya

...2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records relating to FIR in Crime No.390 of 2015 dated 25.09.2015 on the file of the Inspector of Police Keelavalavu Police Station, Madurai District and quash the same as against the petitioners.

For Petitioners	:	Mr.D.Rameshkumar
For R1	:	Mr.K.V.Rajarajan
		Govt. Advocate (Crl.Side)
For R2	:	Mr.P.Bala Subramanian

O R D E R

This petition has been filed seeking to quash the case registered in Crime No.390 of 2015 on the file of the 1st respondent herein.

2. It is seen that a case in Crime No.390 of 2015 for the alleged offences under Sections 294(b), 323, 324 and 506(ii) IPC on the file of the 1st respondent police, has been registered against the petitioners/accused.

3. When the matter is taken up for hearing, the petitioners/Accused and the second respondent, appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the learned Government Advocate (Crl.Side) through the respondent police.

4. Learned counsel appearing for the parties filed a joint memo of compromise dated 28.07.2016, 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 Crime No.390 of 2015 pending on the file of the first respondent.

5. 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 escape from the clutches of law."



6. Perusal of FIR would go to show that the dispute between the defacto complainant and petitioners/accused has arisen on account of a claim over a particular land and the defacto complainant sustained simple injury. It is also submitted that both the accused and the defacto complainant are relatives and that they have settled all their issues between them.

7. Even though the case is registered for various offences as stated supra, some of which are non compoundable offences and the parties cannot be allowed to compound the offences by way of compromise / out of Court settlement, considering the nature of allegations and pursuant to the amicable settlement between the parties, there is no scope for the case ending in conviction; that there is no possibility of the defacto complainant giving evidence against the accused persons; that the witnesses would also become hostile; that the continuation of the present criminal case will be an abuse of the process of Court and that it would not be in the ends of justice.

8. Hence, taking note of the judgments referred to supra and in view of joint memo of compromise, this Court is of the opinion that it can safely be said that no useful purpose would be served in keeping the matter pending.

9. Accordingly, this Criminal Original Petition is allowed and the entire proceedings in Crime No.390 of 2015 dated 25.09.2015 on the file of the 1st respondent police in respect of the petitioners/accused are hereby quashed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To:

1. The Inspector of Police,
Keelavalavu Police Station,
Madurai District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.D.Rameshkumar, Advocate in SR.40957

Cr1.O.P.(MD)No.13376 of 2016
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