



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2016

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THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) Nos.13389 and 13403 of 2016

Crl.O.P.No.13389/2016

Arul Anto Cross @ Anto ... Petitioner

-vs-

1. The State represented by its
Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(Crime No.161/2016) ... 1st Respondent/Complainant

2. Manikandan ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the entire records in relating to the FIR in Crime No.161/2016 on the file of the 1st respondent and quash the same.

For Petitioners : Mr.M.s.Jeyakarthik

For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

For R2 : Mr.A.Karthik

Crl.O.P.No.13403 /2016

1.Stephin
2.Arun
3.Muthuraj (Minor)
rep by his Father S.Chanthirakumar
4.Manikandan ... Petitioners/Accused 1 to 4
-vs-

1. The State represented by its
Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(Crime No.163/2016) ... 1st Respondent/Complainant

<https://hcservices.ecourts.gov.in/hcservices/>

2. Arul Anto Cross @ Anto ... 2nd Respondent/Defacto
Complainant



Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the entire records in relating to the FIR in Crime No.161/2016 on the file of the 1st respondent and quash the same.

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For Petitioners : Mr.A.Karthik

For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

For R2 : Mr.M.S.Jeyakarthik , Advocate

COMMON ORDER

These petitions have been filed seeking to quash the case in Crime Nos.161 & 163/2016 on the file of the first respondent.

2. As far as Crl.O.P.(MD) No.13389/2016 is concerned, it is the case of the prosecution that the de-facto complainant/2nd respondent preferred a complaint to the 1st respondent alleging that he is an employee of the Arun Smart Saloon and that the petitioner used to go to his saloon for hair cut. While so, it is alleged that the petitioner did not give the money to the 2nd respondent for the services rendered. When the 2nd respondent demanded money, a dispute arose and on 21.06.2016, when the 2nd respondent was in his relative's house, the petitioner trespassed into the house, abused the 2nd respondent with filthy language and attacked him using knife and caused serious threat to the life and limb. Pursuant to the complaint preferred by the 2nd respondent, a case has been registered in Crime No.161 of 2016 for the alleged offences under Sections 448, 294(b), 324 and 506(ii) IPC on the file of the 1st respondent police against the petitioner/accused.

3. As far as Crl.O.P.(MD) No.13403/2016 is concerned, in respect of the same incident, the 2nd respondent has preferred a complaint against the petitioners and based on which, a case in Crime No.163/2016 for offences under Sections 147, 148, 294(b), 341, 342, 323 and 506(ii) IPC on the file of the respondent police and both the cases in Crime Nos.161 and 163 of 2016 are case and counter.

3. When the matters are taken up for hearing, the petitioners/Accused and the second respondents in both the cases, 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.

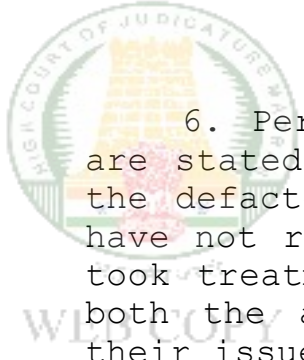
4. Joint counsel appearing for the parties filed a joint memo of compromise, duly stating that since the parties have arrived at an amicable settlement by way of compromise among



themselves, the second respondent in both the cases have agreed to withdraw their respective cases in Crime Nos.161 and 163 of 2016 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 the FIRs would go to show that deadly weapons are stated to have been used by the accused, but on enquiry with the defacto complainants, they have themselves admitted that they have not received any injuries and it is not their case that they took treatment in any of the hospital. It is also submitted that both the accused and the defacto complainants have settled all their issues between them.

7. Even though the cases are 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 cases 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 matters pending.

9. Accordingly, this Criminal Original Petition is allowed and the entire proceedings in Crime Nos.161 and 163/2016 on the file of the 1st respondent in respect of the petitioners/accused in both the cases are hereby quashed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To:

1. The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +One cc to Mr.M.S.Jeyakarthik, Advocate, SR.No.40550
RR
RL/4C/4P/PV/8/9/2016