



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)Nos.2077 and 5273 of 2016

and

Crl.M.P. (MD) .No.1056 of 2016 in Crl.O.P.No.2077/2016

1. Yovel Rathnaraj
2. Jancy Rani ... Petitioners in Crl.O.P.No.2077/2016

1. Sanjeevi
2. S.Vinothkumar
3. Guna
4. Arjun ... Petitioners in Crl.O.P.No.5273/2016

Vs.

1. State through the
Inspector of Police,
Thalamuthu Nagar Police Station,
in Crime No.65 of 2016,
Tuticorin District.

2. S.Vinothkumar ... Respondents in Crl.O.P.No.2077/2016

1. The Sub-Inspector of Police,
Thalamuthunagar Police Station,
Tuticorin,
Tuticorin District.

2. Jansirani ... Respondents in Crl.O.P.No.5273/2016

Prayer in Crl.O.P.No.2077/2016: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the F.I.R. In Crime No.65 of 2016 dated 29.01.2016 on the file of Inspector of Police, Thalamuthu Nagar Police Station, Tuticorin District and quash the same as far as the petitioners above named are concerned.

Prayer in Crl.O.P.No.5273/2016: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Crime No.749 of 2015 on the file of the Sub Inspector of Police, Thalamuthunagar Police Station, Tuticorin, Tuticorin District and to quash the same.



For Petitioners : Mr.B.N.Rajamohamed
(in Crl.O.P.No.2077/2016)
For R1 : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor
For R2 : Mr.K.Prabhu

For Petitioners : Mr.K.Prabhu
(in Crl.O.P.No.5273/2016)
For R1 : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor
For R2 : Mr.B.N.Rajamohamed

C O M M O N O R D E R

These petitions have been filed to quash the F.I.R. in Crime Nos.65 of 2016 and 749 of 2015 on the file of Inspector of Police, Thalamuthu Nagar Police Station, Tuticorin District.

2. It is seen that a case, in Crime No.65 of 2016, for the alleged offences under Sections 406, 420, 294(b), 506(i) and 427 of I.P.C., has been registered against the petitioners / accused Nos.1 and 2 in Crl.O.P.(MD).No.2077 of 2016 and a case in Crime No.749 of 2015, for the alleged offences under Sections 448, 352, 294(b), 506(i) of I.P.C. and Section 4 of Tamil Nadu Women Harassment Act has been registered against the petitioners/accused in Crl.O.P.(MD).No.5273 of 2016.

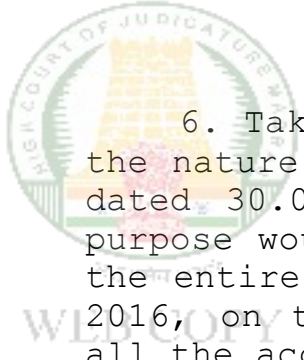
3. When these matters are taken up for hearing, the petitioners/ accused in Crime Nos.65 of 2016 and 749 of 2015 and the second respondent/de facto complainant, appeared in person and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the Government Advocate (Criminal Side) through the first respondent Police, namely, V.Sankaralingam, Special Sub-Inspector of Police, Thalamuthunagar Police Station, Tuticorin, Tuticorin District, learned counsel appearing for the parties also endorsed the identify of their respective parties.

4. The learned counsel appearing on either side 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 has agreed to withdraw the above case in Crime Nos.65 of 2016 and 749 of 2015, pending on the file of the first respondent Police.

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 try to escape from the clutches of law.



6. Taking note of the judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise, dated 30.03.2016, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in Crime Nos.65 of 2016 and 749 of 2015 of 2016, on the file of the first respondent Police, in respect of all the accused, are hereby quashed.

7. Accordingly, these criminal original petitions are allowed on the basis of the compromise entered into between the parties. The joint compromise memos, dated 30.03.2016, shall form part of this Order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

ENCL: HEREIN ENTER THE JOINT COMPROMISE MEMO

To

1. The Inspector of Police,
Thalamuthu Nagar Police Station, Tuticorin District.

2. The Sub-Inspector of Police,
Thalamuthunagar Police Station,
Tuticorin, Tuticorin District.

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

+one cc to M/s.S.Senthil Sankara Natha Kumar,
Advocate in SR.No.18095

akv

CSL/SKS-RR/03.05.2016 : 4p/5c

Cr1.O.P.(MD)Nos.2077 and 5273 of 2016
30.03.2016