



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.03.2016

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

Crl.O.P.(MD) No.4270 of 2016

1.Darmar @ Darmaraj
2.Santhanam @ Santhana Krishnan ... Petitioners/A3 and A4

-vs-

1.State Represented by
The Inspector of Police,
District Crime Branch,
Madurai District.
(Crime No.13 of 2001) ... 1st Respondent/Complainant

2.Veeranan ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to C.C.No.46 of 2004 on the file of the Judicial Magistrate No.I, Madurai and quash the same as against the petitioners.

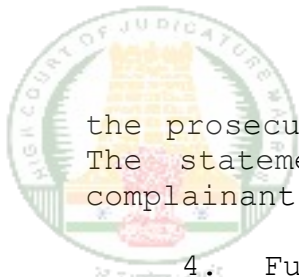
For Petitioner : Mr.R.Ilayaraja
For R1 : Mr.C.Mayilvahan Rajendran
Additional Public Prosecutor
For R2 : Mr.P.Mani Anand

O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No. 46 of 2004 pending on the file of the Judicial Magistrate No.I, Madurai, pursuant to the amicable settlement effected between the parties.

2. It is seen that a case in Crime 13 of 2001 for the alleged offences under Sections 120(B), 406, 420 and 417 IPC, has been registered against the petitioners/accused. After completion of the investigation, the 1st respondent has filed a charge sheet, which was duly taken on file in C.C.No.46 of 2004 by the Judicial Magistrate No.I, Madurai.

3. It is seen that the first information report in this case was registered in the year 2001 and the final report was filed in the year 2004 as C.C.No.46 of 2004 against Kannan/A1, Vadivelu/A2, Darmar/A3 and Santhanam/A4. It is stated by the learned Additional Public Prosecutor, that NBW is pending against Kannan/A1 and Vadivelu/A2, since 2004. It appears that the defacto complainant has entered into a compromise with Darmar/A3 and Santhanam/A4 and they are also present before this Court. This Court made it clear that the entire prosecution will be quashed against all the accused and there will not be piecemeal quashing of the Charge Sheet, only against A3 and A4, because there is a charge of 120(B) IPC, conspiracy. Mr.P.Mani, learned counsel for the 2nd respondent/defacto complainant, submitted that the defacto complainant has no objection for



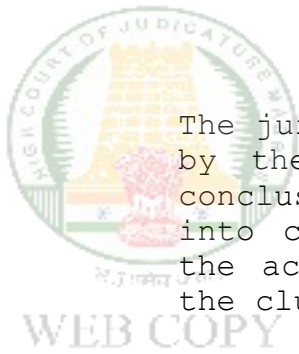
the prosecution being quashed as against Kannan/A1 and Vadivelu/A2 also. The statement of the learned counsel for the 2nd respondent/defacto complainant is recorded.

4. Further, 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 Additional Public Prosecutor, through the respondent Police, namely, A.Palanisamy, Sub-Inspector of Police, District Crime Branch, Madurai. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

5. The counsel appearing on either side filed a joint memo of compromise, dated 03.03.2016, duly stating that since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent has agreed for quashing of the above case in C.C.No.46 of 2004 pending on the file of the Judicial Magistrate No.I, Madurai.

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, 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.46 of 2004 pending on the file of the Judicial Magistrate No.I, Madurai, in respect of all the accused are hereby quashed.

8. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo, dated 03.03.2016, shall form part of this order.

Sd/-

Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

Encl.: Xerox copy of the Memo of Compromise.

To:

1. The Judicial Magistrate No.I, Madurai.
2. The Inspector of Police,
District Crime Branch,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to Mr.R.ILAYARAJA, Advocate, SR No.16135

Cr1.O.P. (MD) No.4270 of 2016
21.03.2016

jikr

SH/AN-MP:04.04.2016:3P/6C