



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2016

CORAM

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

Crl.O.P.(MD) No.4659 of 2016

- 1.Pandi
- 2.Archunan
- 3.Vijay
- 4.Boomi@ Buvaneshwaran
- 5.Kali
- 6.Mandaimuthu @ Muthu
- 7.Malaisamy
- 8.Arumugathammal
- 9.Mahalakshmi
- 10.Muniammal
- 11.Selvi @ Thavaselvi
- 12.Muthu
- 13.Sornavalli
- 14.Kaliammal
- 15.Thandayuthapani
- 16.Chinniah
- 17.Raman ... Petitioners/Accused Nos.1 to 9, 11to 18

-vs-

- 1.State represented by
The Inspector of Police,
Keelachelvanoor Police Station,
Keelachelvanoor, Kadaladi Taluk,
Ramanathapuram District.
(Cr.NO.9 of 2015) ... 1st Respondent/Complainant
- 2.Rajkumar ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records in relating to the proceedings in P.R.C.No.10 of 2015 on the file of the learned Judicial Magistrate, Mudhukulathur and quash the same so far as the petitioners concerned.

For Petitioners : Mr.V.Baskaran
For Respondents : Mrs.S.Prabha
Government Advocate(Crl.Side)
for R.1
For Respondent 2 : Mr.R.Venkateswaran

O R D E R

This petition has been filed seeking to quash the proceedings in P.R.C.No.10 of 2015 on the file of the learned Judicial Magistrate, Mudhukulathur, pursuant to the amicable settlement effected between the parties.



2. It is seen that a case in Crime No.9 of 2015 for the alleged offences under Sections 147, 148, 294(b), 323, 324, 506(ii) and 307 I.P.C. r/w 149 I.P.C. has been registered against the petitioners.

3. When the matter is taken up for hearing, the petitioners and the second respondent, appeared in persons and their identifications were also verified by this Court. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4. The 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 for quashing of the above case in Cr.No.9 of 2015 on the file of the Keelaselvanoor Police Station, Ramanathapuram District.

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. Normally, for offence under Section 307 I.P.C., this Court will not entertain the quashment of the final report on the ground that the parties had arrived at compromise, but whereas in **Narinder Singh and Others Vs. State of Punjab and Another**, reported in **(2014) 6 Supreme Court Cases 466**, the Honourable Supreme Court has stated in Paragraph Nos.26 and 27 as follows:

"26. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 I.P.C. as well. Therefore, only because FIR/Charge-sheet incorporates the provision of Section 307 IPC would not, by itself, be a ground to reject the petition under Section 482 of the Code and refuse to accept the settlement between the parties. We are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307IPC, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid circumstances, if the High Court forms an opinion that provisions of Section 307 IPC were unnecessary included in the charge sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties.

27. At this juncture, we would like also to add that the timing of settlement would also play a crucial role. If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation. Of course, it would be after looking into the attendant circumstances as narrated in the previous para. Likewise, when challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction. However, at this stage, as mentioned above, since the report of the I.O. Under Section 173,Cr.P.C. is also placed before the Court it would become the bounding duty of the Court to go into the said report and the evidence collected, particularly the medical evidence relating to injury etc. sustained by the victim. This aspect, however, would be examined along with another important consideration, namely, in view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is remote and bleak. If the Court finds the answer to this question in



affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to the compromise arrived at between the parties, inasmuch as in such cases no useful purpose would be served in carrying out the criminal proceedings which in all likelihood would end in acquittal, in any case."

7. In this case, there was a fight between two groups of villagers and case and counter has been registered. The counter case is in Cr.No.10 of 2015, in which the defacto complainant in this case is accused. Initially the police have registered the case for the offences under Sections 324 and 506(ii) I.P.C., but later on, it was altered to offences under Section 307 I.P.C.

8. On a perusal of the wound certificate of the defacto complainant, it is seen that he has only sustained simple injuries.

9. The case registered against the defacto complainant in Cr.No.10 of 2015 is also settled between the parties and the parties have filed CrI.O.P.(MD)No.4649 of 2016 for quash.

10. Under such circumstances, 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 Cr.No.10 of 2015 on the file of the Keelaselvanoor Police Station, Ramanathapuram District, in respect of all the accused, are hereby quashed.

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

Sd/-

Assistant Registrar(P&A)

Encl:Xerox copy of Compromise memo
/True copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Keelachelvanoor Police Station,
Ramanathapuram District.
2. The Judicial Magistrate Court, Mudhukulathur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.V.Baskaran, Advocate SR.No.15444/16

+1cc to M/s.R.Venkateswaran, Advocate SR.No.15900/16

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