



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.4817 of 2016

Santhos ... Petitioner / Accused

vs.

1.State represented by
the Inspector of Police
All Women Police Station
Jeeyapuram
Thanjavur District
(In Crime No.12 of 2014)

... 1st Respondent / Complainant

2.Muhamedabi

... 2nd Respondent / De facto
Complainant

3.Farooth Begum

... 3rd Respondent / Victim

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the records and quash F.I.R., in Crime No.12 of 2014, on the file of the first respondent Police.

For Petitioner : Mr.Mohamed Kasim

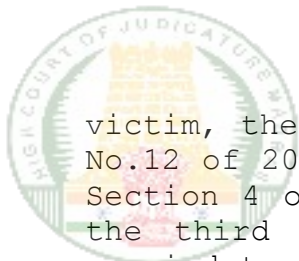
For Respondents : Mr.A.P.Balasubramani, G.A.(Crl.Side) for R1
Mr.K.Navaneetharaja for R2 & R3

O R D E R

This petition has been filed seeking to quash the case registered in Crime No.12 of 2014, on the file of the first respondent Police, pursuant to the amicable settlement effected between the parties.

2. When the matter is taken up for hearing, the petitioner / accused, the second respondent / de facto complainant and the third respondent / victim, 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, Mrs.Sathiyavani, Inspector of Police, All Women Police Station, Jeeyapuram, Thanjavur District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

3. It is seen that the petitioner / accused Santhos was in love with the third respondent / victim Farooth Begum and they eloped on 16.09.2014. On the complaint lodged by the second respondent / de facto complainant, who is none other than the mother of the third respondent /



victim, the first respondent Police initially registered a case, in Crime No.12 of 2014 for girl missing and the same was subsequently altered into Section 4 of POCSO Act and Section 506(ii) I.P.C. It appears that after the third respondent / victim attained the age of majority, she got married to the petitioner / accused on 07.01.2015 and they are having one child.

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4. The learned counsel appearing on either side filed a joint memo of compromise dated 04.03.2016, duly stating that since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent has agreed to withdraw the above case in Crime No.12 of 2014, 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. Under normal circumstances, this Court will not entertain a quash petition based on the compromise memo in offences relating to women and children. However, in the peculiar facts and circumstances of this case, where the victim girl, who appeared before this Court, stated that she got married to the petitioner / accused on 07.01.2015 and she has also a child through him. Therefore, this Court is of the opinion that no useful purpose would be served in keeping this matter pending.

7. Taking into account the above facts, judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise dated 04.03.2016, the entire proceedings in Crime No.12 of 2014, on the file of the first respondent Police, in respect of 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 04.03.2016, shall form part of this Order.

Sd/-

Assistant Registrar(Writs)

/True copy/

Encl:Xerox copy of Compromise memo

Sub Assistant Registrar

To:

- 1.The Inspector of Police,
All Women Police Station,
Jeeyapuram, Thanjavur District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Cr1.O.P.(MD) No.4817 of 2016