



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:24.03.2016

CORAM

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

Crl.O.P.(MD) No.5215 of 2016

Pitchai ... Petitioner/Accused

-vs-

1.State rep by
The Inspector of Police,
Elanchempur Police Station,
Ramanathapuram District.
(In Crime No.92/96) ... 1st Respondent/Complainant

2.Santhanam ... 2nd Respondent/Defacto Complainant

3.Gurunthalingam ... Respondent/Injured Witness

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the case in S.C.No.103 of 2004 on the file of the learned Assistant Sessions Judge, Paramakudi and quash the same.

For Petitioner : Mr.R.Venkateswaran

For R1 : Ms.S.Prabha
Government Advocate (Crl.Side)

For R2 & R3 : Mr.Sivabalan for R2 and R3

O R D E R

This petition has been filed seeking to quash the proceedings in S.C.No. 103 of 2004 pending on the file of the learned Assistant Sessions Judge, Paramakudi, pursuant to the amicable settlement effected between the parties.

2. On a complaint lodged by Santhanam/defacto complainant, respondent police registered a case in Cr.No.92 of 1996 and after completion of investigation, filed a final report before the learned Judicial Magistrate, Mudhukulathur, for the offences under Sections 147, 148, 341, 323, 324, 336, and 307 IPC and thereafter, the case was committed to the Court of Sessions in S.C.No.103 of 2004. Charges were framed against 7 accused and the case against Pitchai/A6, petitioner herein, was split up and the Trial Court proceeded against those 6 accused and the case was ended in acquittal, vide order dated 02.11.2004. Now, the petitioner/A6 and the defacto complainant has amicably arrived at a settlement and approached this Court for quashing the case.

3. Though, under normal circumstances, prosecution under Section 307 IPC should not be quashed, in this case, this Court finds that all the other accused have been acquitted by the Trial Court and it will be a



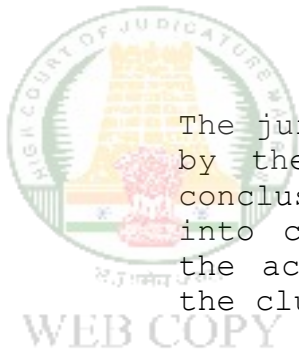
futile exercise, if the trial against this petitioner is allowed to be conducted, when the petitioner and the defacto complaint have arrived at a compromise.

4. When the matter is taken up for hearing, the petitioner/ 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 Government Advocate (Criminal side) through the respondent Police, namely, A.Allirani, Special Sub-Inspector of Police, Elanchempur Police Station, Ramanathapuram District. 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 22.03.2016 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 S.C.No103 of 2004 pending on the file of the Assistant Sessions Judge, Paramakudi.

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 S.C.No.103 of 2004 pending on the file of the learned Assistant Sessions Judge, Paramakudi, in respect of the petitioner/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 22.03.2016, shall form part of this order.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To:

1. The Assistant Sessions Judge, Paramakudi
2. The Inspector of Police,
Elanchempur Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No. 5215 of 2016
24.03.2016

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SH/AN-MP:04.04.2016:3P/4C