



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.5774 of 2016

1.Singh @ John Jeya Singh

2.Xavier @ Raja Xavier

3.Suresh

4.Aali @ Alwin @ Xavier

... Petitioners / Accused 1, 2, 4 & 5

vs.

1.The State rep.by

The Sub Inspector of Police

Thiruvattar Police Station

Kanyakumari District

(Crime No.1095 / 2001)

... 1st Respondent /

Complainant

Gurusumicheal (Died)

... De facto complainant / P.W.1

2.Devadass

... 2nd Respondent / P.W.2 / Injured

(Since defacto complainant / P.W.1

Witness

was died his son Devadass who also
injured witness in the proceedings,
arrayed as 2nd respondent)

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in C.C.No.461 of 2004, on the file of the Judicial Magistrate, Padmanabhapuram and quash the same.

For Petitioners : Mr.K.P.Narayanakumar

For Respondents : Mrs.S.Prabha, G.A.(Crl.Side) for R1

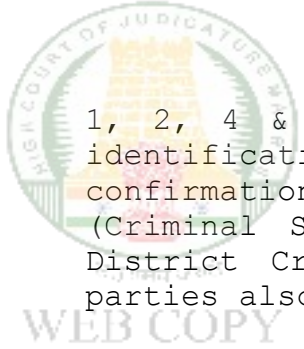
Mr.B.Muneeswaran for R2

O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No.461 of 2004, on the file of the learned Judicial Magistrate, Padmanabhapuram, pursuant to the amicable settlement effected between the parties.

2. It is seen that a case, in Crime No.1095 of 2001 for the alleged offences under Sections 148, 147, 323, 324 and 506(ii) I.P.C., has been registered against the petitioners / accused 1, 2, 4 & 5. After completion of the investigation, the first respondent Police has filed a charge sheet, which was duly taken on file, in C.C.No.461 of 2004, by the learned Judicial Magistrate No, Padmanabhapuram.

3. When the matter is taken up for hearing, the petitioners / accused



1, 2, 4 & 5 and the second respondent, 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 respondent Police, namely, M.Mani, S.S.I, District Crime Branch, Nagercoil. 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 for quashing of the above case in C.C.No.461 of 2004, pending on the file of the learned Judicial Magistrate, Padmanabhapuram.

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, 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.461 of 2004, pending on the file of the learned Judicial Magistrate, Padmanabhapuram, in respect of all the accused are hereby quashed.

7. 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(Writ)

/TRUE COPY/

Sub Assistant Registrar

Encl: Xerox copy of Joint Memo of Compromise
To

- 1.The Sub Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.K.P.Narayanakumar,Advocate in SR.No. 18841

KRK

JAM/13.04.16/JGB-DP/3P-4C

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