



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2016

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THE HONOURABLE MR. JUSTICE P.N. PRAKASH

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Crl.O.P. (MD) Nos. 16604 of 2014 and 5834 of 2016
and

M.P. (MD) Nos. 1 and 2 of 2014,
Crl.M.P. (MD) Nos. 2893 and 2894 of 2016

Mohideen Abdul Kadhar ... Petitioner in both Crl.O.Ps.

Vs.

1. The State,
represented by the Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.
(Crime No.1 of 2014).

2. Hameetha Banu ... Respondents in
Crl.O.P.No.16604/2014

1. The State,
through Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
(Crime No.256 of 2013)

2. Hameetha Banu ... Respondents in
Crl.O.P.No.5834/2016

Prayer in Crl.O.P. (MD) No.16604/2014: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the Charge Sheet in C.C.No.345 of 2014 on the file of the learned Judicial Magistrate, Srivaikundam and quash the same.

Prayer in Crl.O.P. (MD) No.5834/2016: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the Charge Sheet in C.C.No.49 of 2015 on the file of the learned Judicial Magistrate, Srivaikundam and quash the same.

For Petitioner : Mr.D.Selvanayagam
(In Both Petitions)

For R1 : Mrs.S.Prabha
(In Both Petitions) Government Advocate (Crl.Side)



For R2

: Mr.R.R.Kannan for

(In Both Petitions)

Mr.M.Sivakumar

C O M M O N O R D E R

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These Criminal Original Petitions have been filed seeking to quash the proceedings in C.C.Nos.345 of 2014 and 49 of 2015 on the file of the learned Judicial Magistrate, Srivaikundam.

2. It is seen that a case in Crime No.1 of 2014 for the alleged offences under Sections 498(A) and 406 of I.P.C., has been registered against the petitioner. After completion of the investigation, the first respondent has filed a charge sheet, which was duly taken on file in C.C.No.345 of 2014 by the learned Judicial Magistrate, Srivaikundam. It is seen that a case in Crime No.256 of 2013 for the alleged offences under Sections 294 (b), 323, 324, 506(ii) of I.P.C., and Section 4 of TNPWH Act has also been registered against the petitioner. After completion of the investigation, the first respondent has filed a charge sheet, which was duly taken on file in C.C.No.49 of 2015 by the learned Judicial Magistrate, Srivaikundam.

3. When these matters were taken up for hearing, the petitioner 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 Government Advocate (Crl.side) through the Inspector of Police, Srivaikundam Police Station, Thoothukudi District. 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 C.C.Nos.345 of 2014 and 49 of 2015 pending on the file of the learned Judicial Magistrate, Srivaikundam.

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.Nos.345 of 2014 and 49 of 2015 pending on the file of the learned Judicial Magistrate, Srivaikundam in respect of all the accused are hereby quashed.

7. Accordingly, these Criminal Original Petitions are allowed on the basis of the compromise entered into between the parties. The joint compromise memo shall form part of this order. Consequently, the connected Miscellaneous Petitions are closed.

8. The learned counsel for the petitioner submits that the petitioner is working as Pharmacist in Primary Health Centre, Eral
<https://hcservices.ecourts.gov.in/hcservices/> of the complaint given by his wife, 17(b) charges have been issued against him.



9. It is open to the petitioner to submit a copy of this order of quashing the proceedings before the disciplinary authorities and work out his remedy in the manner known to law.

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Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

Encl : Xerox copy of the Memo of Joint Compromise.

To

1. The Judicial Magistrate,
Srivaikundam, Thoothukudi District.
2. The Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.
3. The Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc M/s.D.Selvanayagam, Advocate, Sr.No.20101

akv

JM/AAL-MPA/04.05.2016/4P-6C

Cr1.O.P. (MD) Nos.16604/2014 and 5834/2016
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