



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.04.2016
CORAM

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

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Crl.O.P.(MD) No.6724 of 2016

1. Gandhi
2. Lakshmanan ... Petitioners/A3 & A4

-vs-

1. State Represented by
The Inspector of Police,
Thiruppathur Police Station,
Sivagangai District. ... 1st Respondent/Complainant

2. Mohamed Sarbudheen ... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records relating to the Charge sheet in C.C.No.110 of 2008 on the file of the District Munsif cum Judicial Magistrate, Thiruppathur, Sivagangai District and quash the same.

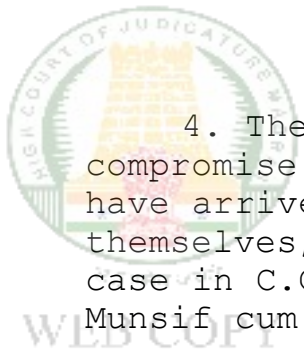
For Petitioners : Mr.M.Kameswaran
For R1 : Mrs.S.Prabha
Government Advocate(crl. side)
For R2 : Mr.R.Rajesh

O R D E R

This petition has been filed seeking to quash the case in C.C.No.110 of 2008 on the file of the District Munsif cum Judicial Magistrate, Thiruppathur, Sivagangai District.

2. It is seen that a case in Crime No.82 of 2008 for the alleged offences under Sections 386 IPC and on completing the investigation, the respondent police filed a charge sheet in C.C.No.110 of 2008 by including the offences under Sections 341, 686 r/w 34 IPC before the District Munsif cum Judicial Magistrate, Thiruppathur, Sivagangai District against the petitioners and two others.

3. When the matter is taken up for hearing, the petitioners/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 (Crl. Side) through the respondent Police, namely, M.Thangarajan, Special Sub-Inspector of Police Thiruppathur Police Station, Sivaganga 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 dated 20.04.2016, 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 C.C.No.110 of 2008 pending on the file of the District Munsif cum Judicial Magistrate, Thiruppathur, Sivagangai.

5. In the additional affidavit filed by the de-facto complainant, in paragraph Nos.3 and 4, it is stated as follows:

"3.I submit that the petitioners and other accused persons namely Senthil (A1), Sudarmani (A2) and I had amicably settled the matter.

4.I agreed for quashing the C.C.No.110 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Thiruppathur, Sivagangai District for all accused namely Senthil (A1), Sudarmani(A2), Gandhi (A3), Lakshmanan(A4)".

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 dissonance 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 dated 20.04.2016, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings against all the accused in C.C No.110 of 2008 on the file of the District Munsif cum Judicial Magistrate, Thiruppathur, 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 memos dated 20.04.2016 shall form part of this order.

Sd/-
Assistant Registrar(AE)

/True copy/

Sub AssistantRegistrar

To:

1. The District Munsif cum Judicial Magistrate,
Thiruppathur, Sivagangai District
2. The Inspector of Police,
Thiruppathur Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.Kameswaran, Advocate SR.No.23207

Encl:Xerox copy of compromise memo.

sm:GSV:12.5.2016:3P/5C

<https://hcservices.ecourts.gov.in/hcservices/>

Cr1.O.P. (MD) No.6724 of 2016
25.04.2016