



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.7002 of 2016

WEB COPY

1. Maharajan
2. Muthuraj
3. Prabhakaran

...Petitioners/A1 to A3

-vs-

1. State represented by
The Inspector of Police,
Thiruchendhur Police Station,
Thoothukudi District.
(Crime No.56/2016)

...1st Respondent/Complainant

2. Sivaraj

...2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the Crime No.56 of 2016 on the file of the 1st Respondent police and quash the same.

For Petitioners	:	Mr.S.Vinayak
For R1	:	Mr.K.V.Rajarajan Govt. Advocate (Crl.Side)
For R2	:	Mr.B.Jameel Arasu

O R D E R

This petition has been filed seeking to quash the case registered in Crime No.56 of 2016 on the file of the 1st respondent herein.

2. It is seen that a case in Crime No.56 of 2015 for the alleged offences under Sections 294(b), 307 and 506(ii) IPC on the file of the 1st respondent police, has been registered against the petitioners/accused.

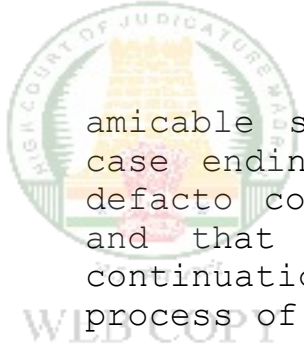
3. When the matter is taken up for hearing, the petitioners/Accused and the second respondent, appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the learned Government Advocate (Crl.Side) through the respondent police.

4. Learned counsel appearing for the parties filed a joint memo of compromise dated 14.04.2016, 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 Crime No.56 of 2016 pending on the file of the first respondent.

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. Even though the case is registered under Section 307 IPC, which is a non compoundable offence and the parties cannot be
<https://hcservices.go.in/hcservices> compound the offence by way of compromise / out of Court settlement, considering the nature of allegations, injury, period of treatment, motive for the occurrence and pursuant to the



amicable settlement between the parties, there is no scope for case ending in conviction; that there is no possibility of the defacto complainant giving evidence against the accused persons; and that the witnesses would also become hostile; that the continuation of the present criminal case will be an abuse of the process of Court and that it would not be in the ends of justice.

6.1. The defacto complainant himself has admitted that he sustained only simple injury, for which he was in the hospital for one day and an inference can be drawn that no offence under Section 307 IPC is made out and the offence made out is only under Section 323 IPC at the most.

7. Hence, taking note of the judgments referred to supra and in view of joint memo of compromise dated 14.04.2016, this Court is of the opinion that it can safely be said that no useful purpose would be served in keeping the matter pending.

8. Accordingly, this Criminal Original Petition is allowed and the entire proceedings in Crime No.56 of 2016 dated 02.02.2016 on the file of the 1st respondent police in respect of the petitioners / accused are hereby quashed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To:

1. The Inspector of Police,
Thiruchendhur Police Station,
Thoothukudi District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.S.Vinayak, Advocate in SR.35160

+1cc to M/s.B.Jameel Arasu, Advocate in SR.35159

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ar.

PBK/SK-SKN/SAR-II 26/07/2016 ::3P-5C:: (IT)