



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2016

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THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.7478 of 2016

1. Ramalingam
2. Kumar
3. Arunkumar

... Petitioners/A1 to A3

-vs-

1. State Rep. by
The Inspector of Police,
Koombur Police Station,
Koombur, Dindigul District.
(Crime No.55/2016)

... 1st Respondent/Complainant

2. Manikandan

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records in Crime No.55 of 2016 on the file of the 1st respondent police and quash the same.

For Petitioners	:	Mr.A.Joel Paul Antony
For R1	:	Mr.A.P.Balasubramani
		Govt. Advocate (Crl.Side)
For R2	:	Mr.S.Vinayak

O R D E R

The petitioners, who are accused in this case, have filed this petition, seeking to quash the case registered in Crime No.55 of 2016 pending on the file of the 1st respondent police, pursuant to the amicable settlement effected between the parties.

2. It is seen that the case in Crime No.55 of 2016 has been registered by the Inspector of Police, Koombur Police Station, Koombur, Dindigul District for the alleged offences under Sections 341, 294(b), 323 and 506(i) IPC.

3. Learned counsel for the petitioners/accused would submit that it was simply a wordy quarrel between the defacto complainant and the accused persons. It is further submitted that in fact no such occurrence had taken place on the said date as alleged in the FIR and in order to wreak vengeance, the present FIR has been registered; that there is a compromise between the defacto complainant and the accused persons and therefore, the FIR registered has no legal basis and therefore, it must be quashed.



4. A joint memo of compromise entered into between the complainant and the accused has been filed by the parties and the petitioners/accused and the second respondent are personally present before this Court; 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. Pursuant to the compromise, the second respondent has agreed to withdraw the case in Crime No.55 of 2016 pending on the file of the first respondent. The parties have stated that they will not indulge in any such activities detrimental to their own personal interest and the interest of the society and their statement is recorded.

5. Learned counsel for the petitioner has submitted that in the ends of justice and in order to avoid the misuse of the process of law, the prosecution must be quashed.

6. Per contra, learned Government Advocate (Crl.Side) would contend that there is an embargo under Section 320 (9) Cr.P.C., under which no offence shall be compounded except as provided by the said Section and therefore, these proceedings cannot be quashed.

7. Therefore, the question to be decided is whether a criminal proceedings or the First Information Report or complaint filed under Section 498(A) can be quashed under Section 482 Cr.P.C., despite an embargo under Section 320 (9) Cr.P.C., which specifically states "No offence shall be compounded except as provided by this Section".

7a. In the case of Madhu Limayi vs. State of Maharashtra 1977 (4) SCC 551, it was held that power under Section 482 Cr.P.C., should not be exercised when there is an express bar in some other provisions of the Code.

7b. The Court in B.S. Joshi v. State of Haryana, (2003) 4 SCC 675 ("B.S. Joshi") held that the High Court can quash the proceedings under Section 482 Cr.P.C., if it comes to the conclusion that ends of justice so requires, i.e. there would be almost no chance of conviction. Thus, B.S.Joshi's case provided a creative solution for quashing of proceedings under Section 482 Cr.P.C.

7c. Invoking the doctrine of judicial restraint, it was held in the case of Divisional Manager, Aravali Golf Club and another vs. Chandar Hass and another, JT 2008 (3) SCC 221 that Section 482 Cr.P.C., restricts the power of the Court and it does not permit the Court to ordinarily encroach into the legislative or executive domain.



7d. Section 482 Cr.P.C., deals with saving of inherent power of the High Court, the Hon'ble Supreme Court, after referring the decision in which there was an observation that power under Section 482 Cr.P.C., cannot be exercised to do something, which is expressly barred, held that those judgments cannot be read as Euclids Formula and that judgments of a Court cannot be read mechanically and like a Euclid Theorem. It was pointed out that in rare and exceptional cases, even a departure can be made from the principle laid down. In other words, it was pointed out that judicial activism can be resorted to by the Court where the situation forcefully requires it in the interest of country or society.

8. It is pertinent to mention here that in consequence of the amicable settlement between the parties, there is no possibility of the defacto complainant giving evidence against the accused persons and the witnesses would become hostile and ultimately, this case will not end in any conviction. Therefore, the continuation of criminal case will be an abuse of the process of Court.

9. When such a situation arose in similarly placed matters in **Cr1.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..... 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.....".

10. Hence, considering the nature of allegations made and in view of the joint memo of compromise, it can safely be concluded that no useful purpose would be served in keeping the matter pending.



In the result, this Criminal Original Petition is allowed in consequence of the compromise between the parties. The entire proceedings in Crime No.55 of 2016 on the file of the 1st respondent police are hereby quashed against the petitioners/accused.

Sd/-
Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar

To:

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

+1cc to Mr.A.Joel Paul Antony, Advocate SR.No.32513

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