



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2016

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THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P. (MD) No.9162 of 2016

Malaisamy @ Balan

... Petitioners/Sole Accused

-VS-

1. State represented by
The Inspector of Police,
Central Crime Branch,
Madurai City.
(Crime No.32/2013)

... 1st Respondent/Complainant

2. D.Anand

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records in Crime No.32 of 2013 on the file of the 1st Respondent police and quash the charge sheet against this petitioner.

For Petitioner	:	Mr.P.Senguttuarasan
For R1	:	Mr.K.V.Rajarajan
		Govt. Advocate (Crl.Side)
For R2	:	Mr.M.Mohamed Rafi

ORDER

This petition has been filed seeking to quash the case registered in Crime No.32 of 2013 on the file of the 1st respondent herein.

2. It is seen that a case in Crime No.32 of 2013 for the alleged offences under Sections 406, 420, 466, 467, 468, 471 and 474 IPC on the file of the 1st respondent police, has been registered against the petitioner/sole accused.

3. When the matter is taken up for hearing, the petitioner/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 06.06.2016, 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.32 of 2013 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."

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6. Even though the case is registered for offences stated supra, some of which are non compoundable offences and the parties cannot be allowed to compound the offences by way of compromise / out of Court settlement, considering the nature of allegations and pursuant to the amicable settlement between the parties, there is no scope for the case ending in conviction; that there is no possibility of the defacto complainant giving evidence against the accused persons; 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.

7. Hence, taking note of the judgments referred to supra and in view of joint memo of compromise dated 06.06.2016, 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.32 of 2013 dated 19.06.2013 on the file of the 1st respondent police in respect of the petitioner / sole accused are hereby quashed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Central Crime Branch, Madurai City.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +2cc to Mr.P.SENGUTTARASAN, Advocate Sr.No.35078
AR
AA/DB/29.07.2016/3p-5c

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