



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.9808 of 2016

1. Samaya Muthu
2. Raja @ Maik Raja
3. Vadivel

... Petitioners/A1 to A3

-vs-

1. State Rep. by
The Inspector of Police,
E-2, Mathichiyam Police Station,
Madurai, Madurai District.

... 1st Respondent/Complainant

2. Muthu Kumar

... 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records and quash the charge sheet in C.C.No.63 of 2015 on the file of the learned Judicial Magistrate No.II, Madurai, Madurai District, pursuant to the compromise arrived at by the parties.

For Petitioners	:	Mr.M.Seeni Sulthan
For R1	:	Mr.K.V.Rajarajan Govt. Advocate (Crl.Side)
For R2	:	Mr.R.Ilyaraja

O R D E R

This petition has been filed seeking to quash the case registered in C.C.No.63 of 2015 pending on the file of the learned Judicial Magistrate No.II, Madurai, Madurai District, pursuant to the amicable settlement effected between the parties.

2. It is seen that the case in Crime No.103 of 2015 has been registered by the 1st respondent herein for the alleged offences under Sections 387 and 506(ii) IPC @ 387, 506(ii) and 34 IPC. After completion of the investigation, the Investigating Officer has filed a charge sheet before the learned Judicial Magistrate No.II, Madurai, Madurai District, which was taken cognizance by the Magistrate in C.C.No.63 of 2015.

3. When the matter is taken up for hearing, the ~~petitioners~~ ~~respondents~~ 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, 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 proceedings in C.C.No.63 of 2015 pending on the file of the learned Judicial Magistrate No.II, Madurai, Madurai District.

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. The investigating officer has examined eight witnesses, including officials witnesses; that in the 161 statement of the defacto complainant, what is stated in the FIR is reiterated; that many of the witnesses are only mahazar witnesses, who have spoken about the observation mahazar

7. When the main witnesses including the defacto complainant did not support the case of the prosecution, there is no scope for the case ending in conviction. Even though the case is registered for various offences as stated supra (some of which are non compoundable offences), considering the nature of allegations and pursuant to the amicable settlement between the parties, 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, this Court deem it proper to quash the proceedings.

8. Hence, taking note of the judgments referred to supra, this Court is of the opinion that it can safely be said that no useful purpose would be served in keeping the matter pending.

9. In the result, this Criminal Original Petition is allowed and entire proceedings in C.C.No.63 of 2015 on the file of the learned Judicial Magistrate No.II, Madurai, Madurai District are hereby quashed against the petitioners/accused.

Sd/-

Assistant Registrar(Records)

/TRUE COPY/

Sub Assistant Registrar

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To:

1. The Judicial Magistrate No.II,
Madurai, Madurai District

<https://hcservices.courts.gov.in/services> of Police,
E-2, Mathichiyam Police Station,
Madurai, Madurai District.



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.

+1cc to MR.M.SEENI SULTHAN, Advocate in SR.No. 32768

JAM/11.08.2016/KP/ 4P-5C

Cr1.O.P. (MD) No.9808 of 2016

24.06.2016