

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON`BLE MR.JUSTICE **A.D. JAGADISH CHANDIRA**

Crl.O.P.No.943 of 2014 and M.P.Nos.1 and 2 of 2014

1.Beema Rao
2.Arasumani
3.Karkuzhali
4.Malarvizhi
5.Kuppusamy

... Petitioners/Accused 1 to 5

Vs

1.The Inspector of Police,
Kadpadi Police Station,
(Women Wing),
Vellore District.

... Respondent/Complainant

2.Sasikala

... Respondent/De facto complainant

Criminal Original Petition filed under Section 482 Cr.P.C to call for the records in Crime No.1609/2013 pending on the file of the Inspector of Police, Katpadi Police Station, (Women Wing), Vellore District and and quash the Criminal proceedings.

For Petitioner : Mr.E.Kannadasan

For 1st Respondent: Mr. B.Ramesh Babu,
Government Advocate (Crl. Side)

For 2nd Respondent : Mr.B.Jawahar.

ORDER

This Criminal Original Petition has been filed by the petitioners/Accused 1 to 5 to quash the Criminal proceedings in Crime No.1609/2013 pending on the file of the Inspector of Police, Katpadi Police Station, (Women Wing), Vellore District.

2. The case of the prosecution is that the second respondent was working in the private concern by name M/s. Infotech at Hyderabad and the first petitioner and that the parents of the second respondent were searching suitable bridegroom for her marriage and that the second petitioner/A2 was approached her parents and informed them that the first petitioner/A1 was working as Manager in the Dr.Reddy's Laboratories Ltd., at Hyderabad and drawing salary of Rs.70,000/- per month and that on satisfying about the matching of Horoscope both the families were exchanged opputhamboolam on 18.04.2012 and thereafter the second respondent and the first petitioner/A1 were frequently met each other and that the first petitioner/A1 had given assurance that he will marry her and had physical intimacy with her on several occasions and also received 10 sovereigns of jewels from her for his expenses and thereafter on the instigation of the petitioners/Accused 2 to 4, A1 demanded 100 sovereigns of jewels and

cash of Rs.5,00,000/- as dowry and then only he will marry her or otherwise they will arrange A1's marriage with another woman, who is complying their needs and the same was communicated to her parents. On 12.10.2013, the parents of the second respondent approached the petitioners 1 & 2 and enquired from them and at that time, petitioners 3 and 4 were abused them and asked to go out from their house. Hence, the second respondent again approached the first petitioner and enquired him and he also abused her and threatened to do away and the parents of the first petitioners were try to perform his marriage with another woman in a hurry manner and also they decided to do away the second respondent with the help of the 5th petitioner and 10 other rowdy people were tried to do away her entire family members but the neighbours were saved them from their illegal attempt. Based on the above complaint, a case in Katpadi Police Station (Women Wing) Crime No.1609/2013 under sections 417, 498(A), 294(b) and 506(i) IPC was registered and the the case was taken up for investigation. Pending investigation, the petitioners have come up with the present Criminal Original Petition seeking to quash the Criminal Proceedings.

3. Today, a Joint Compromise Memo signed by the petitioners

and the second respondent in the presence of their counsels and attested by the respective counsels, has also been filed by the parties stating that they have voluntarily come forward and filing this Joint Compromise Memo before this Court without any coercion or undue influence.

4. The learned counsel for the petitioners as well as the counsel for the second respondent have submitted that the petitioners and the second respondent/defacto complainant belong to the same community and that the dispute between them were compromised by the elders of the both families and on the advice of them they were agreed to settle their dispute amicably out of court. The learned counsel for the second respondent/defacto complainant has also no objection to quash the criminal proceeding in Crime No.1609/2013 pending on the file of the first respondent police. The petitioners have given undertaking that they will not disturb the life of the second respondent/defacto complainant in future.

5. The Learned Government Advocate (Crl. side) was also heard.

The learned Government Advocate has filed a status report of the first respondent, wherein it is contended that the petitioners/accused (A1

to A5) filed this petition only in order to escape from the clutches of law. Hence, he prayed for dismissal of this Criminal Original Petition.

6. In the Judgment reported in **2012 (10) SCC 303 [Gian Singh vs. State of Pubjab and Haryana]**, three Judges Bench of the Hon'ble Apex Court has held as follows:- (paragraphs 52, 53, 54 and 57)

"52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the

other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under [IPC](#) or offences of moral turpitude under special statutes, like [Prevention of Corruption Act](#) or the offences

committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

"57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences

under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like [Prevention of Corruption 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. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil,

partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

The decision rendered in ***B.S.Joshi v. State of Haryana 2003 Cr.LJ 2028 (SC)***, was also considered in the above judgment in respect of the scope of Section 320, vis-a-vis the inherent powers under Section

482 of the Code particularly in respect of Section 498(A) of IPC.

7. Though the learned Government Advocate (Crl.side) has opposed for quashing the proceedings based on the joint compromise memo, taking into consideration the decision of the Hon'ble Apex Court, having regard to the fact that the dispute between the offender and the victim has been settled although the offence under Section 498A alone is non-compoundable, in the opinion of this Court, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor.

8. Therefore, the proceedings in in Crime No.1609/2013 pending on the file of the Inspector of Police, Katpadi Police Station, (Women Wing), Vellore District, is quashed against the petitioners/ accused 1 to 5 and the Criminal Original Petition is disposed of accordingly. The joint memo of compromise dated 4th September, 2017, forms part of the record. Consequently, connected miscellaneous petition is closed.

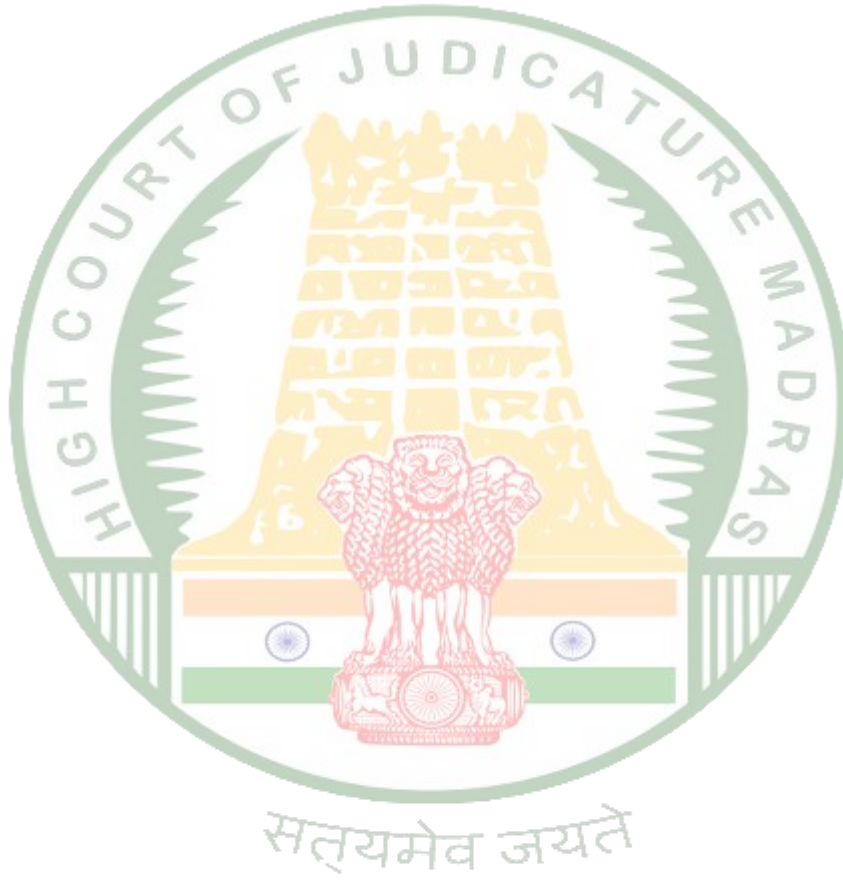
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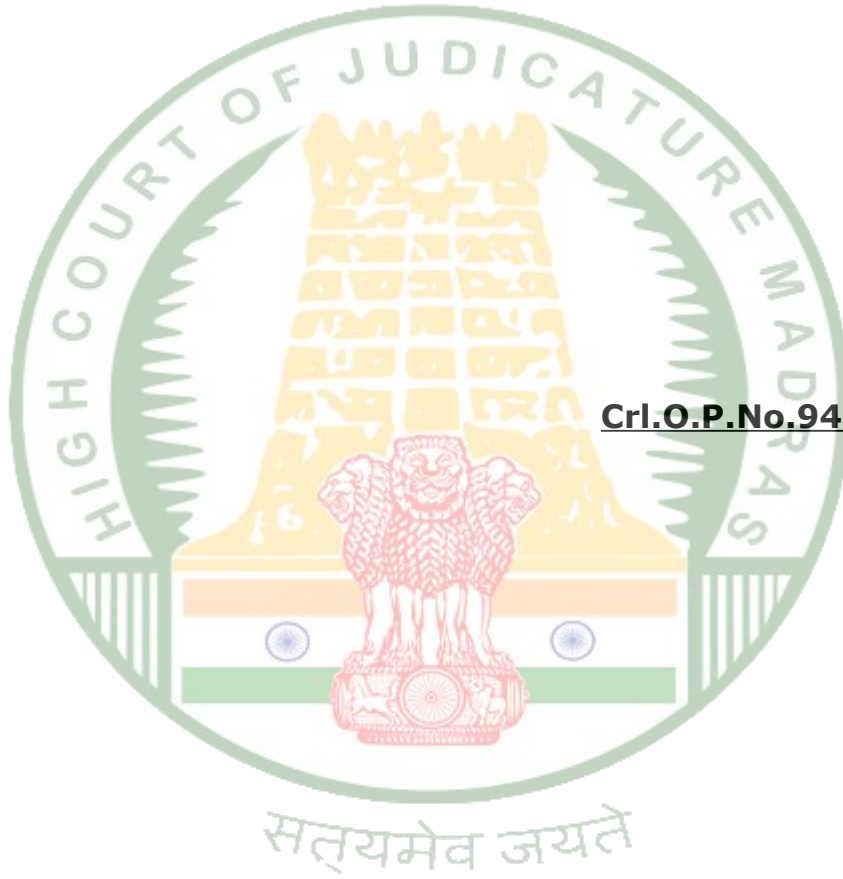
1. The Inspector of Police, Kadpadi Police Station, (Women Wing), Vellore District.
2. Public Prosecutor, High Court, Madras.



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A.D.JAGADISH CHANDIRA, J

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