

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

**CRL.RC.No.94 of 2014
and
M.P.No.1 of 2014**

Uma Krishnan

... Petitioner

Vs.

1.Assistant Commissioner of Police,
Cyber Crime Cell,
Central Crime Branch,
Egmore, Chennai- 600 008.

2.Annamalamani @ Mani

3.Nagaraj

4.G.Sukumar @ Durai(Died)

5.Seenivasan

6.A.Shanmugam

7.U.Shankar

... Respondents

Criminal Revision Case has been filed under Sections 397 & 401 of the Criminal Procedure Code, to call for the records and to set aside the impugned order dated 04.12.2013 made in M.P.No.8285 of 2013 in C.C.No.14350 of 2005 on the file of the learned Chief Metropolitan Magistrate, Egmore and consequently to allow this Criminal Revision Case in the interest of Justice.

For the petitioner : Mr. K.V.Babu

For respondents : Mr.R.Ravichandran for R-1
Government Advocate(Crl. Side)

Mr.Krishnasamy for R-2

O R D E R

The petitioner has filed the revision case, dismissing the petitioner's application filed under Sections 256 r/w 257 Cr.P.C. to close the case.

2. The petitioner herein is the defacto complainant in C.C.No.14350 of 2005 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai. The petitioner has given a complaint against the respondents 2 to 7 herein on 26.12.2004, alleging that they are running a news magazine by name, "Naveena Nettrikkan", and on 31.12.2004, they publish a photograph of petitioner's daughter, a leading cine actress, with some clippings of shower video in a bad taste. Based on the complaint, a crime has been registered against the respondents 2 to 7 in Crime No.700 of 2004, for the offences punishable under Section 4 of the Indecent Representation of Women (Prohibition) Act, 1986, Section 3(a) & (b) of the Young Persons Harmful Publications Act,1956 and Section 9(2) of the TamilNadu Compulsory Censorship of Publicity Materials Act,1987. After investigation, a final report has been filed and the matter was taken on file in the year,2005 in C.C.No.14350 of 2005. After eight years, on 15.11.2013, the petitioner was served with summons from the trial Court for appearance and to give evidence. After receipt of the summons, the petitioner filed an application

under Sections 256 r/w 257 of Cr.P.C. to close the case either by dismissing the complaint or discharging the accused on the ground that due to lapse of time, the petitioner did not want to pursue the case. The Court below dismissed the application by a non speaking order stating that as the offence is a non compoundable offence, the relief sought for by the petitioner cannot be granted. Challenging the above said order, the present criminal revision case has been filed.

3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent and also the learned counsel appearing for the respondents 2 to 6 and perused the materials available on record.

4. Earlier, the matter was taken up for hearing, the learned counsel appearing for the petitioner would submit that the petitioner did not want to pursue the case and she wants to give quietus to the issue due to lapse of time, and she has also filed an affidavit stating that the petitioner want give quietus to the entire issue in controversy and she want to compound the offence. In the above circumstances, this Court directed both the petitioner as well as the respondents 2 to 7 present before this Court. Today, the petitioner and the respondents 2,3,5,6 and 7 are present before this Court and it is reported that the

4th respondent was died pending revision, this Court enquired the petitioner and the petitioner submitted that she is not willing to proceed with the case, and she wants give quietus to the entire controversy and also willing to compound the offence.

5. In the above circumstances, since the petitioner/defacto complainant herself not willing to proceed with the case, the possibility of conviction is remote and bleak. In the above circumstances, continuing the criminal case would put the accused to oppression and cause prejudice to them and it is also amounts to abuse of process of court. The Hon'ble Supreme Court, in **GIAN SINGH Vs. STATE OF PUNJAB AND ANOTHER** reported in **2012 (1) SCC 303**, has held as follows:-

"But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a 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, the High Court may quash the 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 the 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 the 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 above Judgment has been followed by an another Judgment of the Hon'ble Supreme Court in **NARINDER SINGH AND OTHERS Vs. STATE OF PUNJAB AND OTHERS** reported in **2014 (6) SCC 466**, and held as follows:-

"29.1. Power conferred under [Section 482](#) of the Code is to be distinguished from the power which lies in the Court to compound the offences under [Section 320](#) of the Code. No doubt, under [Section 482](#) of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the

settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

6. The instant case, not involving any heinous and serious offences of

mental depravity or offences like murder, rape, dacoity, etc and in view of the fact that the defacto complainant is not willing to proceed with the case, as the possibility of conviction is remote and bleak, there is no purpose in continuing the criminal case. In the above circumstances, to meet the ends of justice, this Court inclined to quash the criminal proceedings.

7. In the result, the criminal revision case is allowed. The entire criminal proceedings in C.C.No.14350 of 2005 on the file of the learned Chief Metropolitan Magistrate, Egmore is quashed. Consequently, connected M.P. is closed.

08.06.2017

Index : Yes/No
Internet : Yes/No
rrg/kkd

To

- 1.The Chief Metropolitan Magistrate, Egmore, Chennai.
2. Assistant Commissioner of Police, Cyber Crime Cell,
Central Crime Branch, Egmore, Chennai- 600 008
- 3.The Public Prosecutor, High Court, Madras-104.

V.BHARATHIDASAN, J.
rrg/kkd

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