

VIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.23022 of 2017
and
Crl.M.P.No.13403 of 2017

Baskar ... Petitioner/A2

Vs.

1. The State Inspector of Police,
Arcot Taluk Police Station,
Vellore District. ... 1st Respondent/Complainant
2. Santhosh Kumar ... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pending on the file of respondent police namely Inspector of Police, Arcot Taluk Police Station in Cr. No.303/2013 against the petitioner alone and to quash the Criminal Proceeding.

For Petitioner : Mr. D.Balaji

For Respondents : Mr. C.Iyyapparaj
Additional Public Prosecutor
for R1

Mrs.D.Rajalakshmi - for R2

O R D E R

The Criminal Original Petition has been filed to call for the entire records pertaining to Crime No.303 of 2013 on the file of the first respondent and to quash the same, insofar as the petitioner is concerned.

2. The case of the second respondent/defacto complainant is that he along with his cousin's son Pritiviraj and one of the relative Selvaraj went to the temple festival at Periyakudi Village, wherein they were assaulted by the Peiriyakudi Village People. Thereafter due to the injury sustained, the second respondent/defacto complainant was admitted in the Walaja Government Hospital and a case was registered by the 1st respondent police in Crime No.303 of

2013 for the offences under sections 147, 148, 294(b), 323, 324, 506(ii) IPC r/w 3(1) (x) 3(2) (iii) SC and ST Act.

3. The petitioner is the eighth accused in the said offence. During the investigation, the petitioner and the defacto complainant have amicably resolved the dispute among themselves and the defacto complainant was made aware of the facts that the petitioner was not connected in the offence. Accordingly, they have entered into a compromise and also filed a joint memo of compromise, dated 26.10.2017 before this Court, to the effect that she has no objection if the investigation in Crime No.303 of 2013 is quashed, insofar as the petitioner/8th accused is concerned.

4. It is pertinent to note that the defacto complainant as well as the petitioner are personally present before this Court and also have been identified.

5. Learned Additional Public Prosecutor opposed the proposition and submitted that partial quashing of the FIR, with regard to other accused except the petitioner alone is not permissible in law. He also submitted that the offence made out from the complaint are non-compoundable and heinous offences and therefore objected to quash the FIR, insofar as the petitioner is concerned.

6. At this juncture, it would be appropriate to refer to the Judgement of the Hon'ble Supreme Court in the case of Lovely Salhotra and another Vs. State NCT of Delhi and another (Criminal Appeal No.670 of 2017), wherein it has held that an FIR can be quashed in part, on the basis of the facts of each case and would one of the accused has offered to settle the issue amicably with the complainant, he should not be allowed to suffer by refusing to have the investigation quashed as against him.

7. The same proposition has been reiterated in a decision of the Punjab and Haryana High Court, in the case of Balvinder Kumar @ Eidhu Vs. State of Punjab and another in CRM-M-16847-2014 by relying on three other Judgements of the same Court, wherein it was held therein that partial quashing of the FIR is permissible. Likewise, the other Judgement of Punjab and Haryana High Court in Crl.Misc.No.M-23739 of 2010 has held as follows.

"Broad guidelines have been laid down by the Full Bench of this Court in the case of Kulwinder Singh and Ors. Vs. State of Punjab and another 2007 (3) RCR (Crl.) 1052 for quashing the prosecution when parties entered into compromise. The Full Bench has observed that this power of quashing is not confined to matrimonial disputes alone. The relevant portion of the Judgement reads as under:-

26. In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Shawney and others, (1980) 1 SCC 63, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:-

"The finest hour of justice arrived propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320 (9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social emity and reduces friction, then it truly is finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation."

8. In view of the aforesaid precedents and in order to meet the ends of justice, it would be appropriate to entertain the prayer sought for by the petitioner, since the overt-acts in the complaint for the criminal offences mainly implicates the other accused only.

9. Recording the submissions made by the learned counsel for the petitioner, the proceedings in Crime No.303 of 2013, on the file of the respondent police is partially quashed,

insofar as the petitioner alone is concerned. The Criminal Original Petition is partly allowed. It is made clear that the first respondent police is at liberty to proceed with the investigation, insofar as the other accused are concerned. During the course of investigation, if the investigation officer is of the opinion that the petitioner is involved in any other offence, it is open to him to charge the petitioner for such an offence.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Arcot Taluk Police Station,
Vellore District.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Balaji, Advocate, S.R.No.77456

Cr1.O.P.No.23022 of 2017

AR V
CA(13/11/2017)

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