



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE **P. N. PRAKASH**

CRL.O.P. (MD) No. 2119 of 2017

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1. Durai Mani
2. Vaikundaraj, S/O. Subramanian
3. Vaikundaraj, S/O. Muthukumar
4. Hari @ Ari Hara Suthan
5. Naveen @ Naveen Kumar : Petitioners

-Vs-

1. The Inspector of Police,
Ervadi Police Station,
Hirunelveli District.
(Crime No. 126 of 2016) : 1st Respondent / Complainant

2. Premkumar : 2nd Respondent / De-facto Complainant

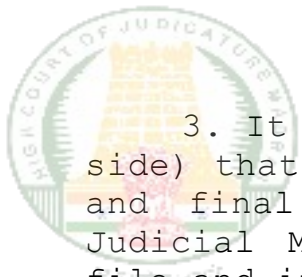
PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the case in Crime No. 126 of 2015 pending on the file of the First Respondent, quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr. R. Nireesh Kumar
For Respondent No. 1 : Mr. K. Anbarasan,
Government Advocate (Crl. side)
For Respondent No. 2 : Mr. P. Samuel Gunasingh

O R D E R

On the complaint lodged by the second respondent-Premkumar, the first respondent registered a case in Crime No. 126 of 2015 under Sections 147, 341, 294(b), 323 and 506(ii) of the Indian Penal Code r/w Section 3(1)(X) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the petitioners herein, challenging which, the petitioners are before this Court for quashing the First Information Report on the ground that the parties have arrived at a compromise.

2. Today, when the matter was taken up for hearing, Mr. T. Duraisingam, Special Sub-Inspector of Police, Ervadi Police Station is present. The petitioners and the second respondent/defacto complainant are also present. Their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the Government Advocate (Crl. Side) through the respondent Police, namely, Mr. T. Duraisingam, Special Sub-Inspector of Police, Ervadi Police Station. Learned counsel appearing for the parties also endorsed the veracity of their respective parties.



3. It is reported by the learned Government Advocate (Criminal side) that the investigation in Crime No.126 of 2015 was completed and final report was filed on 02.01.2016 before the learned Judicial Magistrate, Nanguneri, but, the same was not taken on file and it has been returned to the police.

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4. The parties have filed a joint memo of compromise, wherein, it is stated as follows:

"2. The petitioners and the respondent Nos.2 to 6 further submit that during the pendency of the proceedings, at the intervention of the elders, both the parties have sat together, in which an amicable conclusion has been arrived at and as one part of a conclusion, the respondent Nos.2 to 6 have agreed to say no objection for the purpose of quashing the present criminal proceedings.

3. The petitioners as well as the respondent Nos.2 to 6 jointly submit that the such compromise has been taken place purely with an intention to settle peace among them and it is purely voluntary by the parties concerned. Hence in order to avoid further ordeal of further proceedings, they are prepared to be present before this Hon'ble Court whenever it is required. This Hon'ble Court by taking into consideration of the said aspect with regard to the compromise and in the interest of the parties, can leniently look into the present issue, as such the prayer sought for by the petitioners can be allowed. This Hon'ble Court and the Hon'ble Apex Court has repeatedly held that no useful purpose will be served in further proceeding with the case when the case has been settled between the parties."

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, collusion, abetment, conspiracy, 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. Taking note of the judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, this petition is allowed and the entire proceedings in Crime No.126 of 2015 pending on the file of the respondent police in respect of all the accused are hereby quashed. The joint compromise memo shall form part of this order. However, the petitioners are directed to do social service in St.Anne's Rehabilitation Centre for the Mentally Retarded, St.Thomas Road, Maharaja Nagar & P.O., Tirunelveli-11 and report before the Caretaker of the Centre, on every Saturdays and Sundays, beginning from 29 April, 2017 to 28 May, 2017 and take part in the activities of the Centre. They shall remain in the Centre from morning at 10.00 a.m., to evening at 05.00 p.m. The Caretaker of the Centre is requested to send a report to this Court about the conduct of the petitioners.

sd/
Assistant Registrar



1.The Inspector of Police,
Ervadi Police Station,
Thirunelveli District.

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

COPY TO:

1.The Judicial Magistrate, Nanguneri.

2.The Caretaker,
St.Anne's Rehabilitation Centre for the
Mentally Retarded, St. Thomas Road,
Maharaja Nagar & P.O., Tirunelveli-11.

3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1CC TO M/S.R.NIRESHKUMAR, Advocate, SR.NO. 13622

Order made in
CRL.O.P.(MD)No.2119 of 2017
Dated: 08.03.2017

JM/SV MMS/SAR 3/16.03.2017/4P/7C