



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.2473 of 2017

N.Sikkandar

: Petitioner

vs.

1.The State represented by
The Inspector of Police,
Natham Police Station,
Dindigul District.
(Crime No.204 of 2013).

2.Sariba Begum

: Respondents

Prayer: Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in connection with FIR in Crime No.204 of 2013 on the file of the respondent police and quash the same.

For Petitioner	:	Mr.M.Seeni Sulthan
For Respondent No.1	:	Mr.K.Anbarasan, Government Advocate (Crl.Side)

O R D E R

On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.204 of 2013 on 14.08.2013 under Section 307 of the Indian Penal Code against the petitioner herein, for quashing which, this quash application has been filed on the ground that the parties have arrived at a compromise.

2. Today, when the matter is taken up for hearing, Mr.V.Vijayaraj, Sub-Inspector of Police, Natham Police Station is present. The petitioner 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 Government Advocate (Crl.Side) through the respondent Police, namely, Mr.V.Vijayaraj, Sub-Inspector of Police, Natham Police Station. Learned counsel appearing for the parties also endorsed the identify of their respective parties.



3. Under normal circumstances, a First Information Report registered under Section 307 of the Indian Penal Code should not be mechanically quashed, just because the parties have arrived at a compromise. However, in this case, the defacto complainant/second respondent is the wife of the petitioner/sole accused and both of them state that they are now living together happily. That apart, the police have also not completed the investigation in Crime No.204 of 2013.

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

"2.It is submitted that the petitioner/Accused and the Defacto complainant are husband and wife and the alleged occurrence took place out of Matrimonial dispute and they entered into compromise in presence of Jamath elders and to that effect the compromise deal was executed.

3. It is submitted that since the petitioner/accused and the Defacto complainant want to lead a peaceful life for the paramount interest of their children namely Asith and Hasan and hence the above joint Memo for compromise is being filed by both 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, 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. 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, the entire proceedings in Crime No.204 of 2013 pending on the file of the respondent police in respect of the accused are hereby quashed.

7. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo shall form part of this order.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

encl: Xerox copy of Joint compromise memo enclosed.

To:

1.The Inspector of Police,
Natham Police Station, Dindigul District.

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

+1 cc to M/s.A.Sankara Subbu, Advocate in SR.No. 13497

Order made in

Cr1.O.P. (MD) No.2473 of 2017

08.03.2017