



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2017

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

Cr1.O.P. (MD) No.528 of 2017

1.Surya @ Rajeshwaran
2.Suresh @ Suresh Kumar
3.Muthupandi
4.Santhosh @ Santhosham
5.Duraipandi
6.Easudevan

: Petitioners/Accused Nos.1 to 6

vs.

1.State represented by
The Inspector of Police,
B2 Keelavalavu Police Station,
Crime No.378 of 2015,
Madurai District.

: Respondent/Complainant

2.G.Sakthivel

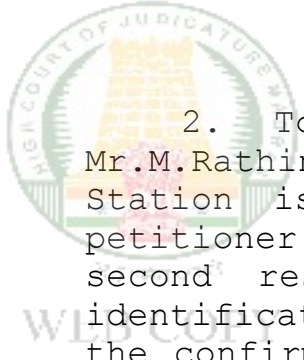
: Respondent/Defacto Complainant

Prayer: Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in Crime No.378 of 2015 on the file of the Inspector of Police, B2 Keelavalavu Police Station, Madurai District and quash the same.

For Petitioners : Mr.K.Prabhu
For Respondent No.1 : Mr.K.Anbarasan,
Government Advocate (Cr1.Side)
For Respondent No.2 : Mr.J.Senthil Kumar

O R D E R

On the complaint lodged by the second respondent-G.Sakthivel, the first respondent registered a case in Crime No.378 of 2015 under Sections 147 and 323 of the Indian Penal Code r/w Section 3 (i)(x) SC &ST Act against the petitioners herein, challenging which, the petitioners are before this Court for quashing the prosecution on the ground that the parties have arrived at a compromise.



2. Today, when the matter is taken up for hearing, Mr.M.Rathinam, Special Sub-Inspector of Police, Keelavalavu Police Station is present. Except Santhosh @ Santhosham, the fourth petitioner herein, all the other petitioners are present. The second respondent/defacto complainant is 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.M.Rathinam, Special Sub-Inspector of Police, Keelavalavu Police Station. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

3. It is reported by the learned Government Advocate (Criminal side) that the investigation was completed and charge sheet was filed, but, the same was not taken on file and it was returned.

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

"Whereas at the intervention and Mediation by the members of both families and villagers, the parties hereto were pacified and whereas both the parties hereto have resolved the issues.

Whereas the 2nd respondent resolved not to proceed with the criminal case in the trial any further either against the petitioners in further also.

Whereas in the light of the above compromise, the parties hereto shall not claim with regard to in this criminal case also. The 2nd respondent is not interested to proceed with the criminal case in Cr.No.378 of 2015 on the file of the Inspector of Police, Keelavalavu Police Station, Madurai District against the petitioners.

The 2nd respondent undertakes to not interested to proceed with the criminal case further any at any point of time against the petitioners herein. Therefore the 2nd respondent was agreed to quash the proceedings in Cr.No.378 of 2015 on the file of the Inspector of Police, Keelavalavu Police Station, Madurai District against the petitioners before the Hon'ble Madurai Bench of Madras High Court."

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, this petition is allowed and the entire proceedings in Crime No.378 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 report before the Chidhi Museum, Madurai, on every Saturday and Sunday, beginning from 29 April, 2017 to 28 May, 2017 and take part in the



activities of the Museum. They shall remain in the Museum from morning at 10.00 a.m., to evening at 05.00 p.m. The Curator is requested to send a report to this Court about the conduct of the petitioners.

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Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Inspector of Police,
B2 Keelavalavu Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

- 1.The Judicial Magistrate , Melur.
- 2.The Curator, Gandhi Museum, Madurai.

+1cc to Mr.K.Prabhu, Advocate Sr.No. 13125

SML

AE/SKN RSK/21.03.2017/4P/6C

Order made in
Cr1.O.P.(MD) No.528 of 2017
Dated: 08.03.2017