



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2018

CORAM

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Cr1.O.P.(MD) Nos.1821 & 4542 of 2018

Cr1.O.P.(MD) No.1821 of 2018

Rajagopalakrishnan

.. Petitioner/Accused No.1

vs.

1.State Rep by the
The Inspector of Police,
All women Police Station,
Paramakudi,
Ramanathapuram District.
(in Cr.No.4 of 2017)

... 1st Respondent/Complainant

2.M.Babyshalini

.. Respondent/Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in FIR in Cr.No.4 of 2017 on the file of the first respondent and quash the same as against the petitioner.

For Petitioner : Mr.D.Senthil
For R1 : Mr.Prabhu Ramachandran
Government Advocate (Cr1.side)
For R2 : Mr.V.Selva

Cr1.O.P.(MD) No.4542 of 2018

1.Chockkalingam

2.Pushpam

3.Annalakshmi

4.Manimaran

5.Murugavel



vs.

1.State Rep by the
The Inspector of Police,
All women Police Station,
Paramakudi,
Ramanathapuram District.
(in Cr.No.4 of 2017)

... 1st Respondent/Complainant

2.M.Babyshalini

.. 2nd Respondent/Defacto
Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in FIR in Crime.No.4 of 2017 on the file of the first respondent and quash the same as against these petitioners.

For Petitioners : Mr.D.Senthil
For R1 : Mr.Prabhu Ramachandran
Government Advocate (Crl.side)
For R2 : Mr.V.Selva

COMMON ORDER

These petitions have been filed seeking to quash the proceeding in Crime No.4 of 2017 on the file of the first respondent, pursuant to the amicable settlement effected between the parties.

2.On the complaint lodged by the second respondent/defacto complainant, the first respondent police registered a case in Crime No.4 of 2017, for the offences under Sections 294(b), 417, 498(A), 506(i) of the Indian Penal Code and Section 4 of Dowry Prohibition Act, 1961, against the petitioner in Crl.O.P(MD).No.1821 of 2017 and the petitioners in Crl.O.P(MD).No.4542 of 2018 and for quashing the same, the petitioners and the defacto complainant are before this Court on the ground that they have arrived at a compromise and the same is filed before this Court.

3.Today, when the matters are taken up for hearing, Mrs.G.Mahalakshmi, Sub-Inspector of Police, is present. The petitioners and the second respondent appeared in person 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, Mrs.G.Mahalakshmi, Sub-Inspector of Police. The learned counsel appearing for the parties also endorsed the identity of their respective parties. Further, when the matters are taken up for hearing, a memos of compromise have been filed in both petition, dated 07.02.2018 and 10.04.2018 respectively. The relevant portion of the memo of compromise reads as follows:-



"3.The petitioner as well as the second respondent during the pendency of the investigation, 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 second respondent has agreed to say no objection for the purpose of quashing the present Criminal proceeding against the accused persons in the above complaint.

4.The petitioner as well as the second respondent jointly submits that such compromise has been taken place purely with an intention to prevent the unwanted and a new dispute because of the pendency of the FIR. It is purely voluntary by the parties concerned. Hence, in order to avoid further ordeal of trial before the Trial Court, they preferred to be present before this Court whenever it is required. This Court by taking into consideration of the above said aspects with regard to the compromise and in the interest of the parties, can leniently look into the present issue, as such the prior sought for by the petitioner can be allowed.

It is therefore prayed that the petitioner as well as the second respondent jointly pray that this Court may be pleased to take into consideration of the present Joint Compromise Memo and quash the case in FIR in Crime No.4 of 2017 on the file of the first respondent."

4.In similar circumstances this Court in Crl.O.P(MD).No.1461 of 2016 (Ramachandran Vs. State represented by the Inspector of Police, All Women Police Station, Pudukkottai, Tuticorin District), dated 28.01.2016, at paragraph No.5 observed as follows:-

"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."

5. In the light of the aforesaid order and taking into consideration of the compromise arrived between the parties, the proceeding in Crime No.4 of 2017 is quashed insofar as the petitioners/ Accused Nos.1 to 7 are concerned.

6. Each of the petitioners is directed to pay a sum of Rs.1,000/- (Rupees One Thousand only) totally a sum of Rs.7,000/- (Rupees Seven Thousand only) to the Tamil Nadu Mediation and Conciliation Centre, Attached to the Madurai Bench of Madras High Court, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, these Criminal Original Petitions are disposed of on the basis of the compromise entered into between the parties. The joint compromise memos, dated 07.02.2018 & 10.04.2018 respectively, shall form part of this order.

Sd/-
Assistant Registrar (P&A)

/True Copy/



To

- RMK/CP

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