



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

CRL.O.P. (MD) Nos.4780 and 4729 of 2018

CRL.O.P. (MD) No.4780 of 2018:

1.Rajesh @ Rajeshkannan
2.Karuppusamy

... Petitioners/ Accused Nos.1 and 2

-Vs-

The State Rep. by,

1. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(Crime No.275 of 2016)

... 1st Respondent/Complainant

2. Nagasekar

... 2nd Respondent /Defacto
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the proceedings in C.C.No.50 of 2017 on the file of the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai and quasjh the same.

For Petitioners	: Mr.R.Balamuruganantham
For R1	: Mr.Prabhu Ramachandran Government Advocate (Crl. Side)
For R2	: Mr.S.Valmekanathan

CRL.O.P. (MD) No.4729 of 2018:

Saraswathy ... Petitioner / Single Accused

-Vs-

State Rep. by,

1. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(Crime No.274 of 2016)

... 1st Respondent/Complainant

2.Rajesh @ Rajeshkannan

...2nd Respondent /Defacto
Complainant

<https://hcservices.ecourts.gov.in/hcservices/>

PRAYER: Petition is filed under Section 482 of the Criminal



Procedure Code, to call for the records pertaining to the proceedings in Crime No.274 of 2016, on the file of the first respondent police and quash the same.

For Petitioner : Mr.S.Valmekanathan
For R1 : Mr.Prabhu Ramachandran,
Government Advocate (Crl. Side)
For R2 : Mr.R.Balamuruganantham

COMMON ORDER

Since, the petitioners in these two petitions are involved in the same crime registered in different crime numbers in Crime Nos. 274 of 2016 and 275 of 2016, i.e., case and case in counter, these two petitions are taken up together, heard and disposed of by way of common order.

These petitions have been filed seeking to quash the Charge Sheet in C.C.No.50 of 2017 which was arose in Crime No.275 of 2016, on the file of the learned District Munsif-cum-Judicial Magistrate, Manamadurai and Crime No.274 of 2016 on the file of the Inspector of Police, Manamadurai Police Station, Sivagangai District.

2. On the complaint lodged by the defacto complainants in both cases, the first respondent police has registered two cases in Crime No.275 of 2016, for the offences punishable under Sections 294(b), 323, 506(ii) IPC., and Section 4 of TNWH Act., against the petitioners in Crl.O.P.(MD)No.4780 of 2018 and Crime No.274 of 2016 for the offence punishable under Sections 294(b), 323, 506(ii) IPC., against the petitioner in Crl.O.P.(MD)No.4729 of 2018. After filing charge sheet in Crime No.275 of 2016, the same has been taken on file in C.C.No.50 of 2017 on the file of the learned District Munsif-cum-Judicial Magistrate, Manamadurai. Now, for quashing the said C.C.No.50 of 2017 and Crime No.274 of 2016, the petitioners and the defacto complainants are before this Court on the ground that they have arrived at a compromise.

3. Today, when the matter was taken up for hearing, Mr.Ganesan, the Special Sub Inspector of Police, Manamadurai Police Station, Sivagangai District, is present. The defacto complainants and the petitioners are present and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the learned Government Advocate (Criminal side) through Mr.Ganesan, the Special Sub Inspector of Police, Manamadurai Police Station, Sivagangai District.

<https://hcservices.ecourts.gov.in/hcservices/> The learned counsel appearing for the petitioner/s in both petitions filed these quash petitions along with separate

joint memo of compromise, dated 13.03.2018. The relevant portions of the joint memo of compromise in both petitions are extracted hereunder:

" The petitioner/s and the 2nd respondent/defacto complainant/s humbly submit that both these parties have approached the villagers and as per the villagers advice, both the petitioner/s and the 2nd respondent/defacto complainant/s have compromised between them and they are ready to compromise the cases lodged in respective of FIR in Crime Nos.274 and 275 of 2016 and further submit that they are close relatives and neighbours and there is no serious previous motive between the both parties. Hence, they have come forward with these quash petitions and to that effect these joint memo of compromise are filed."

5. 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 the separate joint memo of compromise, dated 13.03.2018, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the proceedings in C.C.No.50 of 2017 pending on the file of the learned District Munsif-cum-Judicial Magistrate, Manamadurai, and Crime No.274 of 2016 pending on the file of the Inspector of Police, Manamadurai Police Station, Sivagangai District, in respect of the petitioners/accuses herein in both petitions are hereby quashed.

7. Accordingly, these Criminal Original Petitions are allowed. The above said two joint memo of compromise, dated 13.03.2018 shall form part of this order.

8. At the instance of the learned counsel for the petitioner/s, the petitioner/s themselves voluntarily came forward to contribute some amount to the Mediation and Conciliation Centre attached to this Bench.

9. Accepting the submission, the petitioners in CrI.O.P. (MD).No.4780 of 2018 are directed to pay a sum of Rs.1,000/- each, (totally Rs.2000/-), and the petitioner in CrI.O.P.(MD).No.4729 of 2018 is directed to pay a sum of Rs.1,000/-, to the Mediation and Conciliation Centre attached to this Bench, under the head of Infrastructure funds, within a period of two weeks from the date of receipt of a copy of this order. After making payment, a copy of the challan shall be furnished to the Registrar (Administration), Madurai Bench of Madras High Court, Madurai.

Sd/-

Assistant Registrar(CO)

/True Copy/



Encl.: Xerox Copy of joint Compromise Memo

To

1. The District Munsif-cum-Judicial Magistrate,
Manamadurai.
2. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to :

1. The Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.
2. The Officer in-charge,
The Mediation and Conciliation Centre
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.R.Balamuruganantham Advocate in SR. No.62387

pjl

JM/JC/SAR-3/18.05.2018/5P/7C

Order made in
CRL.O.P. (MD) Nos.4780 and 4729 of 2018
Dated: 18.04.2018