



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P.(MD)No.4789 of 2018

1.Shiek Mohammed
2.Sadham Hussain

... Petitioners/Accused Nos.1
and 2

-Vs-

1.The State Represented by
The Sub Inspector of Police,
Jaihindupuram Police Station (Law and Order),
Madurai.
(Crime No.884 of 2013)

...1st Respondent/Complainant

2.Piyare John

...2nd Respondent/
Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in C.C.No.116 of 2014 on the file of the Learned Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioner : Mr.R.Vinoth Kumar

For R1 : Mr.Prabhu Ramachandran,
Government Advocate (Crl. Side)

For R2 : Mr.S.Muthu Krishnan

O R D E R

This petition has been filed seeking to quash the Charge Sheet in C.C.No.116 of 2014 on the file of the Learned Judicial Magistrate No.IV, Madurai.

2. On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.884 of 2013 for the offence punishable under Sections 147, 341, 294(b), 323, 506(ii) IPC., against the petitioners herein. After filing charge sheet, the same has been taken on file in C.C.No.116 of 2014 on the file of the learned Judicial Magistrate No.IV, Madurai. For quashing the said C.C.No.116 of 2014, the petitioners and the defacto complainant 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.Trisangu, the Special Sub Inspector of Police, Jaihindupuram Police Station (Law and Order), Madurai, is present. The defacto complainant 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.Trisangu, the Special Sub Inspector of Police, Jaihindupuram Police Station (Law and Order), Madurai.

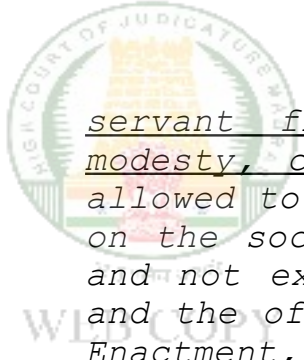
4. The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise dated 15.03.2018. The relevant portions of the said memo is extracted hereunder:

"The petitioners and the second respondent 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 2nd respondent have agreed to say no objection for the purpose of quashing the present criminal proceedings.

The petitioners as well as the 2nd respondent jointly submits that such compromise has been taken place purely with an intention to settle all the issues among them and it is purely voluntary by the parties concerned. Hence, in order to avoid further ordeal of trial before the Trial Court, they are preferred to be present before this Hon'ble Court whenever it is required. This Hon'ble 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 prayer sought for by the petitioners can be allowed."

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 joint memo of compromise dated 15.03.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the proceedings in C.C.No.116 of 2014 pending on the file of the learned Judicial Magistrate No.IV, Madurai, in respect of the petitioners/accused 1 and 2 are hereby quashed.

7. Accordingly, this Criminal Original Petition is allowed. The joint compromise memo dated 15.03.2018 shall form part of this order.

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

9. Accepting the submission, the petitioners are directed to pay a sum of Rs.1,000/- each, (totally Rs.2000/-), 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



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payment, a copy of the challan shall be furnished to the Registrar (Administration), Madurai Bench of Madras High Court, Madurai.

Sd/-
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

PJL

To

ENCL: JOINT COMPROMISE MEMO XEROX COPY HERE WITH ENCLOSED

1. The Judicial Magistrate No. IV,
Madurai.

2. The Sub Inspector of Police,
Jaihindupuram Police Station (Law and Order),
Madurai.

3 The Registrar (Administration),
Madurai Bench of Madras High Court, Madurai.

4 The Deputy Registrar
Lok Adalat/ Mediation & Conciliation Centre,
Madurai Bench of Madras High Court, Madurai.

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

+1 cc to MR. R. VINOTH KUMAR, Advocate SR.No. 62318

Order made in
CRL.O.P. (MD) No. 4789 of 2018
Dated: 18.04.2018

SMA/CM/SAR-2/15.05.2018:4P/7C