



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.O.P. (MD) No.5343 of 2018

1. Karuppasamy

2. Balamurugan

.. Petitioners/Accused Nos.1 and 2

-Vs-

1. The State Represented by,
The Inspector of Police,
Devadanapatti Police Station,
Theni District.

(Crime No.308 of 2016) ...1st Respondent/Complainant

2. Alagurani ...2nd Respondent/ Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the charge sheet in C.C.No.22 of 2017 on the file of the learned Judicial Magistrate, Periyakulam, Theni District, pursuant to the compromise arrived at by the parties.

For Petitioner : Mr.L.Ramprasath

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

For R2 : Mr.P.Arun Jayatram

ORDER

This petition has been filed seeking to quash the Charge Sheet in C.C.No.22 of 2017 on the file of the learned Judicial Magistrate, Periyakulam, Theni District.

2. On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.308 of 2016 for the offence punishable under Sections 294(b), 324 and 506(ii) IPC., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, against the petitioners herein. After filing charge sheet, the same has been taken on file in C.C.No.22 of 2017 on the file of the learned Judicial Magistrate, Periyakulam, Theni District. Now, for quashing the said C.C.No.22



of 2017, 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.K.Sivakumar, the Special Sub Inspector of Police, Devadanapatti Police Station, Theni District, 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.K.Sivakumar, the Special Sub Inspector of Police, Devadanapatti Police Station, Theni District.

4. The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise dated 03.04.2018. The relevant portions of the said memo is extracted hereunder:

"It is submitted that the fact remains that the petitioners and the 2nd respondent are residing in the same village. It is submitted that at the intervention of the elders as well as the well-wishers of both the parties, they resolved their dispute themselves. It is submitted that the 1st petitioner admitted the fact that the alleged marriage between him and the daughter of the 2nd respondent, namely, Nagarathinam was not solemnized in accordance with law. The 1st petitioner hereby agreed to say no objection in W.P. (MD).No.17741 of 2016, pending before this Hon'ble Court to set aside the marriage certificate vide S.I.No.276 of 2016, dated 07.05.2016 issued by the Sub-Registrar, Chokkikulam, Madurai either before Lok Adalat or in Court. The 1st petitioner further agreed to withdraw the H.M.O.P.No.44 of 2016, filed by him before the Sub Court, Periyakulam, which was now transferred by this Hon'ble Court in Tr.C.M.P.(MD).No.427 of 2017 to Sub Court, Dindigul. The 1st petitioner submits that he will not claim anything in future from the daughter of the 2nd respondent and it is resolved that both the parties shall have no future claim of any nature against each other.

Hence, we prayed that this Hon'ble Court may be pleased to accept the compromise memo and quash the proceedings in C.C.No.22 of 2017 pending on the file of the learned Judicial Magistrate, Periyakulam based on the affidavit filed by the defacto complainant/2nd respondent."

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 03.04.2018, 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.22 of 2017 on the file of the learned Judicial Magistrate, Periyakulam, Theni District, in respect of the petitioners/accused 1 and 2 is hereby quashed.



7. Accordingly, this Criminal Original Petition is allowed. The joint compromise memo dated 03.04.2018 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.2,000/- each, (totally Rs.4000/-), 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(AE)

/True Copy/

Sub Assistant Registrar

Encl: Xerox copy of joint Compromise Memo

To

1. The Judicial Magistrate,
Periyakulam, Theni District.
2. The Inspector of Police,
Devadanapatti Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Registrar(Administration),
Madurai Bench of Madras High Court, Madurai.
5. The Deputy Registrar,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court, Madurai.

PJL

AE/SV MMS/SAR3/22.05.2018/4P/6C

Order made in
CRL.O.P. (MD) No.5343 of 2018
Dated: 18.04.2018