



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD) No.5635 of 2018

1.Thangapandiyan
2.Tamilvanan

... Petitioners/ Accused Nos.1 & 2

Vs.

1.The State Rep. By
Sub Inspector of Police,
District Crime Branch,
Pudukottai, Pudukottai District.
(Crime No.07 of 2016)

...Respondent/Complainant

2.Balasubramanian

...Respondent / Defacto Complainant

Petition is filed under Section 482 of the Criminal Procedure Code to call for the records of the case in Crime No.7 of 2016 on the file of the 1st Respondent Police and quash the same.

For Petitioners : Mr.S.Sundarapandian

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

For R2 : Mr.S.Muthukumar

O R D E R

This petition has been filed seeking to quash the case in Crime No.7 of 2016 on the file of the first respondent Police.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.7 of 2016 for the offence punishable under Sections 120(b), 406, 420, 465, 468, 471 IPC against the petitioners herein 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.

3. Today, when the matter was taken up for hearing, Mr.T.Selvakumar, the Sub Inspector of Police, District Crime Branch, Pudukottai 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.T.Selvakumar, the Sub Inspector of Police, District Crime Branch, Pudukottai District.

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4.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise dated 03.04.2018, wherein, it is stated as follows:

"The defacto complainant and the petitioners are residing in same locality. Due to the advice of the elders of the family members, the petitioners and defacto complainant were entered into compromise on their own volition and without any third party intervention they were amicably settled the above said amount before the elders. Similarly, the three other persons namely Karuppiah, Palanisamy and one more Karuppiah have also received their amount from the petitioners. In this regard, the above said Karuppiah, Palanisamy and one more Karuppiah have filed an affidavit before this Court. The petitioners and defacto complainant and Karuppiah, Palanisamy and one more Karuppiah do not want to proceed with the above said case in Cr.No.7 of 2016.

In view of the said compromise, the second respondent has agreed to withdraw the case in Crime No.7 of 2016 on the file of the first respondent police and he hereby undertakes that he will not claim any damages against the petitioners herein in future. Similarly the above said Karuppiah, Palanisamy and one more Karuppiah also filed undertaking affidavit that they will not claim damages against the petitioners herein in future.

Hence, this Court may be pleased to call for the records of the case in Crime No.7 of 2016 on the file of the 1st Respondent Police and quash the same.

5.In CrI.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, crime, fabrication of documents, false evidence, robbery,



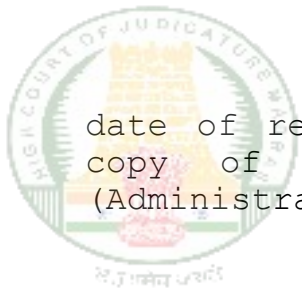
dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned 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 Crime No.7 of 2016 pending on the file of the first respondent Police in respect of the petitioners/accused 1 and 2 are hereby quashed.

7. This Criminal Original Petition is allowed accordingly on the basis of the compromise entered into between the parties. 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, each petitioner is directed to pay a sum of Rs.10,000/- (Total sum of Rs.20,000/-), 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.

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/True Copy/

Sd/-

Assistant Registrar(CO)

Sub Assistant Registrar

To

- 1.The Sub Inspector of Police,
District Crime Branch,
Pudukottai, Pudukottai District.
- 2.The Officer-in-Charge,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:

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

+1cc to M/S.S.Sundarapandian, Advocate SR.No. 61573

Order made in
CRL.O.P.(MD) No.5635 of 2018
16.04.2018

mj/tsg

JM/SV MMS/SAR 4/23.04.2018/4P/6C