



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.5769 of 2018

Thilainathan

.. Petitioner

vs.

1.State represented by
The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.
(Crime No.781 of 2017).

2.Saravanan

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to record the compromise reached between the petitioner/Accused and 2nd respondent/de-facto complainant and call for the records in the case in Crime No.781 of 2017 on the file of the 1st respondent and quash the same as illegal, abuse process of law.

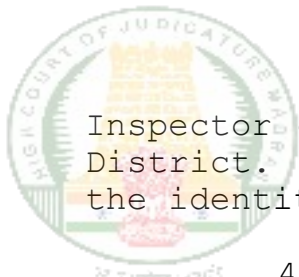
For Petitioner	: Mr.M.Jothi Basu
For R1	: Mr.Prabhu Ramachandran Government Advocate (Crl.Side)
For R2	: Mr.Kumaravel

O R D E R

This petition has been filed seeking to quash the case in Crime No.781 of 2017 pending 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.781 of 2017 for the offence punishable under Sections 279 and 304(A) IPC against the petitioner herein and for quashing the same, the petitioner 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.M.Velmurugan, Sub Inspector of Police, Aruppukottai Town Police Station, Virudhunagar District is present. The petitioner and the defacto complainant 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 the respondent police, namely, Mr.M.Velmurugan, Sub



Inspector of Police, Aruppukottai Town Police Station, Virudhunagar District. Learned counsel appearing for the parties also endorsed the identity of their respective parties.

4. The learned counsel appearing for the petitioner filed this quash petition along with a joint memo of compromise dated 06.04.2018, wherein, it is stated as follows:

"It is stated that the accused and defacto complainant are residing in the Aruppukottai Town. After the incident the petitioner and defacto complainant have entered into a compromise in the presence of village elders. The petitioner has paid a sum of Rs.2,10,000/- as a compensation to the second respondent and his family members. The compromise reached between the parties was also reduced into writing. It is stated that the defacto complainant has no objection in respect of this Hon'ble Court, quashing the case in Crime No.781 of 2017 on the file of the 1st respondent.

It is therefore prayed that this Hon'ble Court may be pleased to record the compromise memo and call for the records and quash the case in Crime No.781 of 2017 on the file of the first 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 06.04.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the proceedings in Crime No.781 of 2017 pending on the file of the first respondent Police in respect of the petitioner/accused 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 06.04.2018 shall form part of this order.

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

9. Accepting the submission, the petitioner is directed to pay a sum of Rs.2,000/- (Rupees two thousand only) 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/

Sub Assistant Registrar



To

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

2.The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.

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

4.The Officer Incharge,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.G.M.Law Office, Advocate SR.No. 61800

Cr1.O.P.(MD) No.5769 of 2018

mj

JM/SV MMS/SAR 4/09.05.2018/4P/6C