



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.O.P. (MD) No. 5797 of 2018

1. Thirumalaisamy

2. Selvaraj

.. Petitioners/Accused Nos. 1 and 2

-Vs-

1. The State Rep. by,

The Inspector of Police,
Oddanchatram Police Station,
Dindigul District.

(Crime No. 108 of 2017)

... Respondent/Complainant

2. Sivasankar

... Respondent/

Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records for the First Information Report in Crime No. 108 of 2017 dated 21.03.2017 on the file of the first respondent police and quash the same as illegal and devoid of merits.

For Petitioners : Mr. T. Sugadev

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

For R2 : Mr. B. Viswanathan

ORDER

This petition has been filed seeking to quash the First Information Report in Crime No. 108 of 2017, 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. 108 of 2017 for the offence punishable under Sections 341, 294(b), 323, 506(i) IPC., against the petitioners herein. Now, for quashing the said Crime No. 108 of 2017, the petitioners and the defacto complainant are before this Court on the ground that they have arrived at a compromise.



3. The learned Government Advocate (Crl. Side) on instructions would submit that after completing investigation in Crime No.108 of 2017, charge sheet has been filed before the Judicial Magistrate Court, Oddanchatram, and the same is yet to be taken on file.

4. Today, when the matter was taken up for hearing, Mr.Dharmar, the Special Sub Inspector of Police, Oddanchatram Police Station, Dindigul 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.Dharmar, the Special Sub Inspector of Police, Oddanchatram Police Station, Dindigul District.

5. The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise dated 16.03.2018. The relevant portions of the said memo is extracted hereunder:

"It is submitted that the petitioners and the 2nd respondent are became friends now, the 2nd respondent given the complaint under frustration. Now, at the intervention of family elders, they decided not to precipitate the issue further and willing to withdraw the criminal case, since the case is pending before the 1st respondent, they moved the present quash petition along with the joint compromise memo.

Hence, the petitioners and the 2nd respondent are filed the joint compromise memo in support of their application seeking permission to quash the offences before this Hon'ble Court. This joint memo may be taken as part and parcel of their application to quash the offences after the permission of this Hon'ble Court.

For the reasons stated above, it is humbly prayed that this Hon'ble Court may be pleased to accept the joint compromise memo filed by the petitioners and the 2nd respondent and quash the case in Crime No.108 of 2017, pending on the file of the 1st respondent."

6. 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."

7. Taking note of the judgments referred to supra, considering the nature of allegations and in view of the joint memo of compromise dated 16.03.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the proceedings in Crime No.108 of 2017 pending on the file of the first respondent police and the final report in respect of the petitioners/accused 1 and 2 is hereby quashed.

8. Accordingly, this Criminal Original Petition is allowed. The joint compromise memo dated 16.03.2018 shall form part of this order.



9. 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.

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10. Accepting the submission, the petitioners are directed to pay a sum of Rs.3,000/- each, (totally Rs.6000/-), 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(RTI)

/True copy/

Sub Assistant Registrar

PJL

To

1.The Judicial Magistrate,
Oddanchatram.

2. The Inspector of Police,
Oddanchatram Police Station,
Dindigul District.

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

Copy to:

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

2. The Co-Ordinator,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/S.M.JEGADEESH PANDIAN, Advocate SR.No.62348

Order made in
CRL.O.P. (MD) No.5797 of 2018

Dated: 18.04.2018