



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD) No.6019 of 2018

Aziz @ Abdul Aziz

... Petitioner/2nd Accused

-Vs-

1.State Represented by,
The Inspector of Police,
Sayalkudi Police Station,
Ramnad District.

...1st Respondent/Complainant

2.Syed Ibrahim

...2nd Respondent/
Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to C.C.No.60 of 2002, on the file of the Judicial Magistrate, Mudukulathur in so far as the petitioner is concerned and quash the same.

For Petitioner: Mr.D.Venkatesh

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

For R2 : Mr.T.Lenin Kumar

ORDER

This petition has been filed seeking to quash the Charge Sheet in C.C.No.60 of 2002 on the file of the Judicial Magistrate, Mudukulathur.

2. On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.436 of 2001 for the offence punishable under Sections 147, 148, 341, 324, 336, 427, 506(ii)& 379 IPC., against the petitioner herein. After filing charge sheet, the same has been taken on file in C.C.No.60 of 2002 on the file of the learned Judicial Magistrate, Mudukulathur Now, for quashing the said C.C.No.60 of 2002, 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.C.Madhavan, the Special Sub Inspector of Police, Sayalkudi Police Station, Ramnad District, is present. The defacto complainant and the petitioner 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.C.Madhavan, the Special Sub Inspector of Police, Sayalkudi Police Station, Ramnad District.

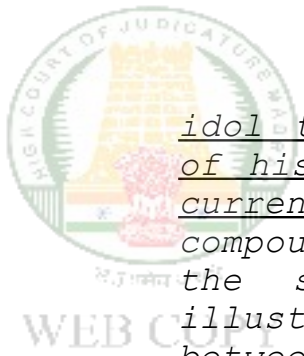
4. The learned counsel appearing for the petitioner filed this quash petition along with a joint memo of compromise dated 06.04.2018. The second respondent also filed an affidavit to that effect. The relevant portions of the said joint memo of compromise is extracted hereunder:

"The petitioner and the second respondent entered into an oral compromise in the presence of their family and village elders. Based on the oral compromise, the above quash petition was filed before this Hon'ble Court, seeking to quash the proceedings in C.C.No.60 of 2002. The parties herein jointly pray that this Hon'ble Court may be pleased to quash the proceedings in C.C.No.60 of 2002, on the file of the learned Judicial Magistrate, Mudukulathur. The 2nd respondent has also filed an affidavit to that effect.

It is therefore prayed that this Hon'ble Court may be pleased to quash the proceedings in C.C.No.60 of 2002, on the file of the learned Judicial Magistrate, Mudukulathur insofar as the petitioner is concerned by recording the compromise memo and the affidavit filed by the 2nd respondent in support of the same."

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,



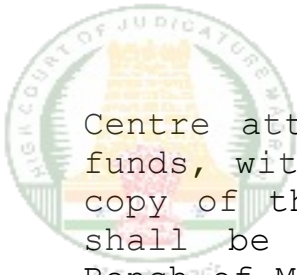
idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. 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 C.C.No.60 of 2002 pending on the file of the learned Judicial Magistrate, Mudukulathur in respect of the petitioner/accused No. 2 is hereby quashed.

7. Accordingly, this Criminal Original Petition is allowed. The joint compromise memo dated 06.04.2018 shall form part of this order.

8. At the instance of the learned counsel for the petitioner, 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.1,000/-, 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.

WEB COPY

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Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

PJL

To

1. The Judicial Magistrate, Mudukulathur.
2. The Inspector of Police, Sayalkudi Police Station, Ramnad District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy To : 1 The Registrar (Admn.)
Madurai Bench of Madras High Court, Madurai.

2. The Officer Incharge,
Mediation and Conciliation Centre,
Madurai Bench Of Madras High Court, Madurai.

+1cc to Mr.D.Venkatesh, Advocate in SR.No.62365

GJM/CM/PN/SAR-3-14.5.18-4P-7C

Order made in
CRL.O.P. (MD) No.6019 of 2018
Dated: 18.04.2018