



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD) No.6020 of 2018

1.Kannan

2.Vairamuthu

.. Petitioners / Accused Nos.1 & 2

Vs.

1.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.

Cr.No.447 of 2016

.. Respondent/ Complainant

2.Nallasivam

3.Thirumurugan

.. Respondents/ Defacto Complainants

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the final report pending on the file of the Subordinate Court, Thirumangalam in S.C.No.602 of 2017 and quash the same as illegal.

For Petitioner	: Mr.V.Angusamy
For R1	: Mr.Prabhu Ramachandran Government Advocate (Crl. Side)
For R2 & R3	: Mr.I.Velpradeep

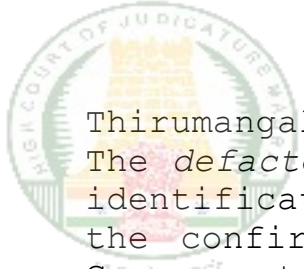
O R D E R

This petition has been filed seeking to quash the proceedings pending in S.C.No.602 of 2017 on the file of the Sub Court, Thirumangalam, pursuant to the amicable settlement effected between the parties.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Cr.No.447 of 2016 for the alleged offence punishable under Sections, 294(b), 341, 323, 353, 379 and 307 IPC against the petitioners/accused 1 and 2. After completing investigation, the first respondent has filed a charge sheet, which has been taken on file in S.C.No.602 of 2017 by the Sub Court, Thirumangalam.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Today, when the matter was taken up for hearing, Mr.M.Ravichandran, the Special Sub Inspector of Police,



Thirumangalam Town Police Station, Madurai District is present. The defacto complainants 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.M.Ravichandran, the Special Sub Inspector of Police, Thirumangalam Town Police Station, Madurai District.

4.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise dated 11.04.2018, wherein, it is stated as follows:

"4. As the petitioners have arrived compromise with the defacto complainants, they have come forward with the criminal original petition under Section 482 Cr.P.C. along with this compromise memo that undersigned by both parties.

5.The offence described in the FIR and the subsequent investigation reveals the fact that the said occurrence was not premeditated and it was just happened in a spur of moment while boarding the passengers in a state highway bus stop. The defacto complainants/ 2nd and 3rd respondents are not willing to prosecute the petitioners and they hereby undertake the same in black and white.

It is therefore prayed that this Court may be pleased to take note of the compromise memo and in view of the case would never end in conviction may exercise its inherent jurisdiction saved by Section 482 Cr.P.C and may quash the pending S.C.No.602 of 2017 on the file of the Judicial Magistrate, Thirumangalam.

5.When such a situation arose in similarly placed matters 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, abetment, conspiracy, abductions, 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 joint memo of compromise dated 11.04.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in S.C.No.602 of 2017 pending on the file of the Sub Court, Thirumangalam in respect of the petitioners/accused 1 and 2 are hereby quashed.

7. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo dated 11.04.2018 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 deposit a sum of Rs.1,000/- (Total sum of Rs.2,000/-), 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.

Sd/

Assistant Registrar(AS)

WEB COPY

/True copy/

Sub Assistant Registrar

Encl:Xerox Copy of Joint compromise Memo.

To

1.The Subordinate Court, Thirumangalam

2.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.

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

Copy to:

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

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

+1cc to Mr.I.VELPRADEEP, Advocate, SR.No.61538

+1cc to Mr.A.BALAJI, Advocate, SR.No.61536

CRL.O.P. (MD) No.6020 of 2018

16.04.2018

MJ/TSG

KK/SV MMS/08.05.2018/SAR-1/4P-8C