



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.04.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD)No.6315 of 2018

WEB COPY

1.Vadivel

2.Arun @ Arun Murugan

3.Ganesan

4.Shithesh Kumar

.. Petitioners/Accused No.1 to 4

.. Vs ..

1.The Inspector of Police,

City Crime Branch,

Trichy City.

In Crime No.45 of 2017

.. 1st Respondent/Complainant

2.Arockia Samy

.. 2nd Respondent /Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in Crime No.45 of 2017 on the file of the first respondent police and quash the same.

For Petitioner

: Mr.R.Ponkarthikeyan

For R1

: Mr.K.K.Ramakrishnan

Additional Government Pleader

For R2

: Mr.K.Sathish Kumar

O R D E R

This petition has been filed seeking to quash FIR in Crime No.45 of 2017 on the file of the first respondent police pursuant to the amicable settlement effected between the parties.

2.The learned counsel appearing for the petitioners submitted that the petitioners/A1 to A4 were charged for the offences under Sections 406, 420 I.P.C and Section 66 D of Information Technology (Amendment) Act, 2008.

3.The learned counsel appearing for the second respondent/defacto complainant admits that the matter has been compromised between the parties.

4.When the matter is taken up for hearing, the petitioners/Accused Nos.1 to 4 and the second respondent, appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the Additional Public Prosecutor through the respondent police. Learned counsel appearing for the parties also endorsed the identify of their respective parties.



5. The learned counsel appearing on either side filed a joint memo of compromise dated 17.04.2018, duly stating that since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent/defacto complainant has agreed to withdraw FIR in Crime No.45 of 2017 on the file of the first respondent police.

6. 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, 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 joint memo of compromise dated 17.04.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, FIR in Crime No.45 of 2017 on the file of the first respondent police. in respect of the petitioners/Accused 1 to 4 alone, are hereby quashed.

8. Accordingly, the Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo dated 17.04.2018 shall form part of this order. The petitioners are directed to pay the cost of Rs.2000/- (Rupees two thousand only) each to the Tamil Nadu Mediation and Conciliation Centre, attached to this Bench, under the head of the Infrastructure Fund, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,City Crime Branch,Trichy City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madras.
- 3 The Co-Ordinator, Mediation and Conciliation Centre,
Madurai bench of madras high court, Madurai.

+1 cc to M/S.R.Ponkarthikeyan, ADVOCATE IN SR No.62885

CRL.OP(MD)No.6315 of 2018
20.04.2018

CM

PK/CM-PN/SAR-1/14.05.2018 : 3P/5C