



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.7211 of 2018

1.Sivasakthi @ Sivasakthivel

2.Nalamurugan

3.Suresh @ Suresh Kumar

4.Kumar @ Selvakumar

.. Petitioners/Accused 1 to 4
vs.

1. The State rep.by

The Sub Inspector of Police,

Peraiyur Police Station,

Ramanathapuram District.

Crime No.60 of 2016.

.. Respondent/Complainant

2. Muniyasamy

.. Respondent/Defacto Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No.163/2016 on the file of the learned District Munsif cum Judicial Magistrate, Kamuthi, Ramanathapuram District in Crime No.60 of 2016 on the file of the 1st respondent police and quash the same as illegal and devoid of merits.

For Petitioners : Mr.G.Vishnuram

For R1 : Mr.Suyambulinga Bharathi
Government Advocate (Crl.Side)

For R2 : Mr.K.Prakash

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.163 of 2016 on the file of the District Munsif cum Judicial Magistrate, Kamuthi, Ramanathapuram District.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.60 of 2016 for the offence punishable under Sections 147, 148, 294(b), 323 and 324 IPC against the petitioners herein. After completing investigation, the first respondent has filed final report and the same has been taken on file in C.C.No.163 of 2016 by the District Munsif - cum - Judicial Magistrate, Kamuthi,



Ramanathapuram District and for quashing the same, this petition has been filed.

3.The parties have filed a joint memo of compromise on 13.04.2018, wherein, it is stated as follows:

WEB COPY

"5.Now the issue has been resolved between the petitioners and the second respondent. Hence, both decided to give a quietus so far as the above criminal case is concerned.

6.Hence the petitioners and the 2nd respondent are filing the joint 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 charge sheet in C.C.No.163 of 2016 on the file of the District Munsif cum Judicial Magistrate, Kamuthi, Ramanathapuram District in Crime No.60 fo 2016 on the file of the 1st respondent."

4.Today, when the matter is taken up for hearing, Mr.S.Selvaraj, Sub-Inspector of Police, Peraiyur Police Station, Ramanathapuram District is present. The petitioners 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 Government Advocate (Crl.Side) through the respondent Police, namely,Mr.S.Selvaraj, Sub-Inspector of Police, Peraiyur Police Station, Ramanathapuram District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

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:

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

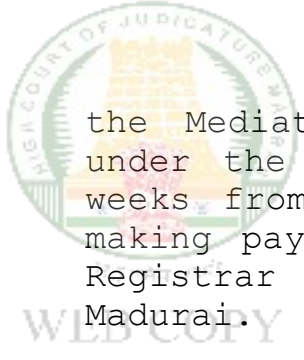


rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will 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 filed on 13.04.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, this petition is allowed and the entire proceedings in C.C.No.163 of 2016 on the file of the District Munsif cum Judicial Magistrate, Kamuthi, Ramanathapuram District in respect of the petitioners/accused Nos.1 to 4 are hereby quashed. The joint compromise memo filed on 13.04.2018 shall form part of this order.

7. 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.

8. Accepting the submission, each petitioner is directed to pay a sum of Rs.2,000/- (Total sum of Rs.8,000/-) 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

/True Copy/

Sub Assistant Registrar

Encl: Xerox copy of joint compromise memo
To

1. The District Munsif cum Judicial Magistrate, Kamuthi, Ramanathapuram District.
2. The Sub Inspector of Police, Peraiyur Police Station, Ramanathapuram District.
3. The Officer Incharge, Mediation and Conciliation Centre, Madurai Bench of Madras High Court, Madurai.
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy to

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

+1cc to Mr.G.Vishnuram, Advocate Sr.No.70424

mj

VB/PN/SAR4/10.07.2018/4P/7C

Cr1.O.P.(MD) No.7211 of 2018
27.06.2018