



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.7373 of 2018

1.I.Peer Mohammed
2.Ayupkhan
3.Mohideen Ali
4.Abdul Lathif
5.Riyas Mohamed
6.Basheer Ahamed
7.Peer Mohamed

.. Petitioners

vs.

1.The Inspector of Police,
Eruvadi Police Station,
Tirunelveli District.
Crime No.117 of 2014.

2.Ashraf Ali

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records pertaining the Charge Sheet in C.C.No.293 of 2017 in Crime No.117 of 2014 on the file of the District Munsif cum Judicial Magistrate, Nanguneri and quash the same as against these petitioners.

For Petitioners : Mr.S.A.S.Alaudeen

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

For R2 : Mr.N.M.Shajahan

O R D E R

This petition has been filed seeking to quash the Charge Sheet in C.C.No.293 of 2017, in Crime No.117 of 2014 on the file of the District Munsif cum Judicial Magistrate, Nanguneri.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.117 of 2014 for the offence punishable under Sections 147, 148, 294(b), 323 and 379 (NH) IPC @ 147, 294(b), 323 and 506(ii) IPC against the petitioners/Accused Nos.1, 2, 3, 5 to 8 herein. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in C.C.No.293 of 2017 by the District



Munsif cum Judicial Magistrate, Nanguneri and for quashing the same, the petitioners and the defacto complainant are before this Court on the ground that they have arrived at a compromise. Further it is stated that trial in the above said case is not yet commenced.

3.Today, when the matter was taken up for hearing, Mr.Selvaraj, the Special Sub Inspector of Police, Eruvadi Police Station, Tirunelveli 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.Selvaraj, the Special Sub Inspector of Police, Eruvadi Police Station, Tirunelveli District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise filed on 25.04.2018, wherein, it is stated as follows:

"4.It is submitted that since these petitioners and defacto complainant are relatives and they belong to the same religion and the said dispute was regarding to family dispute and later the petitioners and defacto complainant had entered into a compromise and settled the matter amicably before their religious elders. Since A4 in this case whereabouts is not known and he still in absconding and the respondent No.2 proposed to withdraw his complaint and he is not willing to prosecute the criminal case further against these petitioners.

Therefore, it is most respectfully prayed that this Hon'ble Court may be pleased to record this compromise memo on file."

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, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her

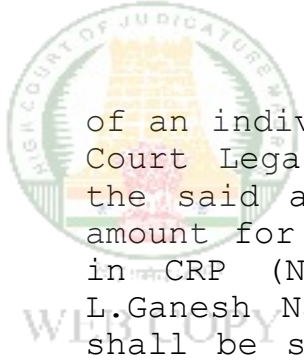


duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, any compromise between the victim and the offender 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 also considering the fact that the petitioners and second respondent/defacto complainant are relatives and they have settled the dispute amicably and to that effect a joint memo of compromise has also been filed on 25.04.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in C.C.No.293 of 2017 pending on the file of the District Munsif cum Judicial Magistrate, Nanguneri in respect of the petitioners/accused Nos. 1, 2, 3, 5 to 8 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 filed on 25.04.2018 shall form part of this order.

8. In this case, the learned counsel appearing for the petitioners submitted that the petitioners are willing to contribute some amount to the High Court Legal Services Committee, Madurai Branch under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of RS.2,500/- (Total sum of Rs.17,500/-) as costs within a period of two weeks from the date of receipt of a copy of this order, by way



of an individual/collective Demand Draft drawn in favour of the High Court Legal Services Committee, Madurai Branch, who shall receive the said amount as "Environmental Fund" and make use of the said amount for the purposes mentioned in the order passed by this Court in CRP (NPD) No.1643 of 2010 on 20.06.2018 [D.Govindasamy Vs. L.Ganesh Naidu (Deceased) and 2 others]. A report in this regard shall be sent by the High Court Legal Services Committee, Madurai Branch to the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai, mentioning clearly the amounts spent towards the purposes mentioned in the above order and the balance amount left etc.,

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

Encl:- Xerox Copy Of Joint Compromise Memo and Mediation report.

To

- 1.The Inspector of Police,
Eruvadi Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Member Secretary, Tamil Nadu State
Legal Services Authority,
Chennai.
- 4.The High Court Legal Services Committee,
Madurai Bench Of Madras High Court,
Madurai.

MJ
KK/RP/SAR-4 :20.07.2018: 4P/5C

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