



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.7511 of 2018

and

Crl.M.P.(MD) .No.3563 of 2018

P.Anvar Sathik .. Petitioner/Accused No.2
vs.
1.The State rep. by,
The Inspector of Police,
Colachel Police Station,
Kanyakumari District. .. 1st Respondent/ Complainant
2. Late Amanulla .. 2nd Respondent/Defacto
Complainant
3. Abdul Kadar .. 3rd Respondent/Father of the
Defacto Complainant

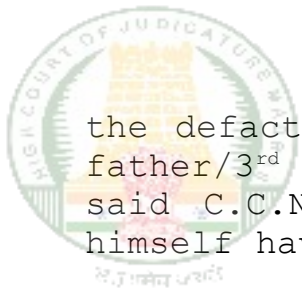
Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No.123 of 2014 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District and quash the same.

For Petitioner : Mr.S.C.Herold Singh
For Respondent No.1 : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)
For Respondent No.3 : Mr.K.Thirumalaiappan

O R D E R

This petition has been filed seeking to quash the charge sheet filed in C.C.No.123 of 2014 on the file of the learned Judicial Magistrate, Eraniel.

2. On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.14 of 2011 for the offence punishable under Sections 341, 294 (b) and 506(ii) of IPC., against the petitioner herein. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in C.C.No.123 of 2014 by the learned Judicial Magistrate, Eraniel. It appears that since



the defacto complainant, namely, Amanulla died on 23.01.2016, his father/3rd respondent appeared before this Court for quashing the said C.C.No.123 of 2014 on the ground that the petitioner and himself have arrived at a compromise.

3. Today, when the matter is taken up for hearing, Mr.R.Amalraj, Sub-Inspector of Police, Colachel Police Station, Kanyakumari District, is present. The petitioner and the third respondent appeared in person 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.R.Amalraj, Sub-Inspector of Police, Colachel Police Station, Kanyakumari District. Learned counsel appearing for the parties also endorsed the identity of their respective parties.

4. The parties have filed a joint memo of compromise dated 06.06.2018, wherein, it is stated as follows:

"2. The petitioner submits that originally the dispute was between the defacto complainant's father and the petitioner. The petitioner submits that the defacto complainant died on 23.01.2016 and after the death of defacto complainant, the father of the defacto complainant and the wife of the defacto complainant do not want to proceed further action as against the petitioner as they are living in the same village and both parties agreed to settle the issue. The petitioner submits that now the petitioner and the defacto complainant families are living as family friends."

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 in view of the joint memo of compromise dated 06.06.2018, 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.123 of 2014 pending on the file of the learned Judicial Magistrate, Eraniel, in respect of the petitioner/Accused No.2 is hereby quashed. Consequently, connected miscellaneous petition is closed. The joint compromise memo dated 06.06.2018 shall form part of this order.

7. 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.

8. Accepting the submission, the petitioner is directed to pay a sum of Rs.5,000/- (Rupees five thousand only) 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 (CS-I)

WEB COPY/True Copy/

Sub Assistant Registrar

Encl: Xerox copy of joint compromise memo

To

1. The Judicial Magistrate,
Eraniel.
2. The Inspector of Police,
Colachel Police Station,
Kanyakumari District.
3. The Registrar (Administration),
Madurai Bench of Madras High Court, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Officer In Charge,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.C.Herold Singh, Advocate Sr.No.68610

PJL

VB/PN/SAR2/04.07.2018/4P/7C

Crl.O.P. (MD) No.7511 of 2018
18.06.2018