



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P. (MD) No.7492 of 2018

WEB COPY

S.S.A.Kapoor @ Regi Kapoor .. Petitioner / Sole Accused

Vs.

1. State represented by
The Inspector of Police,
Asaripallam Police Station,
Asaripallam,
Kanyakumari District.1st Respondent/Complainant

2. Soosaiammal2nd Respondent/De-facto Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to quash the final report/Charge sheet in C.C.No. 40/2017 on the file of the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District against the petitioner herein as sole Accused under sections 294(b), 323 of IPC and Section 4 of TN Prohibition of Harassment of Woman Act, 2002.

For Petitioner : Mr.A.Joseph Jerry

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

For R2 : Mr.R.Murugan

O R D E R

This petition has been filed seeking to quash the charge sheet filed in C.C.No.40 of 2017 on the file of the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District against the petitioner herein under sections 294(b), 323 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.191 of 2016 for the offence punishable under Sections 294(b) and 323 IPC and 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 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.40 of 2017 by the Judicial Magistrate No.I, Nagercoil, Kanyakumari District and for quashing the same, the petitioner and the defacto complainant are before this Court on the ground that they have arrived at a compromise. Further, there is a case in counter in Crime No.190 of 2016 against the second respondent/defacto complainant.



3. Today, when the matter is taken up for hearing, Mr.S.Muthukutty, Special Sub-Inspector of Police, Asaripallam Police Station, Asaripallam, Kanyakumari District, is present. The petitioner 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.Muthukutty, Special Sub-Inspector of Police, Asaripallam Police Station, Asaripallam, Kanyakumari District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4. The parties have filed a joint memo of compromise on 23.04.2018, wherein, it is stated as follows:

"5.The petitioner herein undertakes that he will not indulge any such criminal activities with the defacto complainant as alleged in the final report/charge sheet.

6.It is agreed that the defacto complainant herein namely Soosaiammal is willing to quash the C.C.No.40 of 2017 on the file of the Judicial Magistrate No.I, Nagercoil, Kanyakumari District.

7.It is agreed that the defacto complainant in Crime No.190 of 2019 namely M.Natchatram is willing to quash the FIR in Crime No.190 of 2016 on the file of the Asaripallam Police Station, Kanyakumari District."

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 filed on 23.04.2018, 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.40 of 2017 pending on the file of the Judicial Magistrate, No.I, Nagercoil, Kanyakumari District in respect of the petitioner/sole accused are hereby quashed. The joint compromise memo filed on 23.04.2018 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-II)

/True Copy/



Encl.: Xerox copy of joint Compromise Memo

To

1. The Judicial Magistrate, No.I,
Nagercoil, Kanyakumari District.
2. The Inspector of Police,
Asaripallam Police Station,
Asaripallam, Kanyakumari District.
3. The Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.
4. The Officer-in-charge,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court,
Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.A.Joseph Jerry, Advocate, SR.No.68416

Cr1.O.P.(MD) No.7492 of 2018
13.06.2018

MJ

ES/JC/SAR 3/27.06.2018/4P/7C