



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

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CRL.O.P. (MD) No.7513 of 2018

- 1.Arul @ Arulsamy
- 2.Soosaiammal
- 3.Mathan
- 4.Vimal
- 5.Anthonysamy

.. Petitioners/Accused 1 to 5

Vs.

1. The State of Tamil Nadu,
rep.by the Inspector of Police,
Asaripallam Police Station,
Asaripallam,
Kanyakumari District.

...1st Respondent/Complainant

2. M.Natchatram

...2nd Respondent/De-facto Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for records and quash the FIR in Crime No.190 of 2016 dated 20.06.2016 on the file of the Asaripallam Police Station, Kanyakumari District against the petitioners herein as Accused 1 to 5 under sections 147, 148, 294(b), 427, 447, 506(2) of IPC and 3(1) of TN Prevention of Damage to Public Property Act, 1984.

For Petitioners : Mr.R.Murugan

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

For R2 : Mr.A.Joseph Jerry

ORDER

This petition has been filed seeking to quash the FIR, registered against the petitioners in Crime No.190 of 2016 by the first respondent on 20.06.2016.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Cr.No.190 of 2016 for the alleged offence punishable under Sections 147, 148, 294 (b), 427, 447, 506(ii) IPC and 3(1) of Tamil Nadu Prevention of Damage to Public Property Act, 1984 against the petitioners/accused NOS.1 to 5 and in order to quash the same, the petitioners are before this Court by filing the present petition.



3.Today, when the matter was taken up for hearing, Mr.S.Muthukutty, the Special Sub Inspector of Police, Asaripallam, Kanyakumari 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.S.Muthukutty, the Special Sub Inspector of Police, Asaripallam, Kanyakumari 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 on 23.04.2018, wherein, it is stated as follows:

"4.The second petitioner herein namely Soosaiammal constructed the portion of compound wall as per her undertaken submitted before this Hon'ble Court and hereby she undertakes that she will not interfere in the peaceful possession of the property of the defacto complainant namely M.Natchatram.

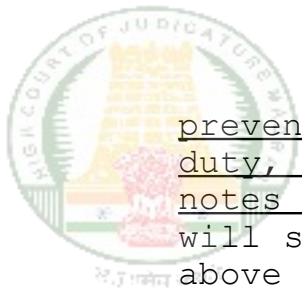
5.The defacto complainant's son filed separate memo gave an undertaking that he will not indulge any such criminal activities with the second petitioner.

6.It is agreed that the second petitioner herein 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 herein 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, crime, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft,



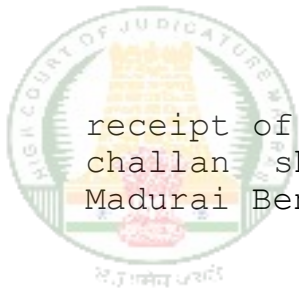
preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, 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, the entire proceedings in FIR No.190 of 2016 pending on the file of the first respondent in respect of the petitioners/accused Nos.1 to 5 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 23.04.2018 shall form part of this order.

8. 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.

9. Accepting the submission, each petitioners is directed to pay a sum of Rs.3,000/- (Total sum of Rs.15,000/-) 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.

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/True Copy/

Sd/-
Assistant Registrar (CS-II)

Sub Assistant Registrar

Encl: Xerox copy of joint Compromise Memo**To**

1. The Inspector of Police,
Asaripallam Police Station,
Asaripallam,
Kanyakumari District.
2. The Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.
3. The Officer-in-charge,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.R.Murugan, Advocate, SR.No.68417

CRL.O.P. (MD) No.7513 of 2018
13.06.2018

MJ
ES/JC/SAR 3/27.06.2018/4P/6C