



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Cr1.O.P.(MD) No.8336 of 2018
and
Cr1.M.P(MD)No.3743 of 2018

1.Kolimurugan @ Senthilkumar
2.Kalaiselvi
3.Pandidurai
4.Pandiyarajan
5.Selvakumar

(Amended vide order dated 19.07.2018) .. Petitioners

vs.

1.State rep.by
The Inspector of Police,
Melur Police Station,
Madurai District.
Crime No.91 of 2018.

2.Murugan .. Respondents

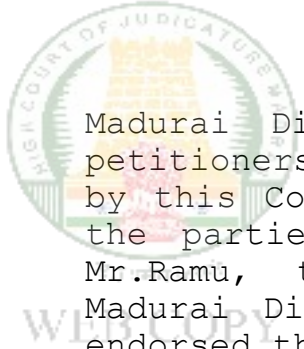
Petition is filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the FIR in Crime No.91/2018 on the file of the 1st respondent police quash the same as illegal.

For Petitioners	:	Mr.K.Kannan
For R1	:	Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R2	:	Mr.B.Kumaresan

O R D E R

This petition has been filed seeking to quash the FIR registered in Crime No.91 of 2018 on the file of the first respondent police.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.91 of 2018 for the offence under Sections 147, 148, 294(b), 323, 324, 427 and 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 against the petitioners/accused Nos.1 to 5 and in order to quash the same, the present petition has been filed. Pending the present petition, the petitioners have filed a joint compromise memo on 10.07.2018, and based on which, they sought to quash the FIR registered in Crime No.91 of 2018.



Madurai 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 Additional Public Prosecutor through Mr. Ramu, the Sub Inspector of Police, Melur Police Station, Madurai District. Learned counsel appearing for the parties also endorsed the identity of their respective parties.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that investigation in Crime No.91 of 2018 is pending.

5. The learned counsel appearing for the petitioners filed a joint memo of compromise on 10.07.2018, wherein, it is stated as follows:

"3. The petitioners submit that while pending the investigation and in the meantime both the accused herein and the 2nd respondent herein settled the matter out of court, at instance of the elders of both family since they belong to same village and they have filed the quash petition before this Hon'ble Court along with their memo of compromise to quash the case in Crime No.91 of 2018 on the file of the 1st respondent police.

4. The petitioners submit that the 2nd respondent/defacto complainant does not want to proceed the case further against the petitioners herein."

6. When such a situation arose in similarly placed matters in CrI.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."

7. Taking note of the judgments referred to *supra*, considering the nature of allegations and also considering the fact that the dispute between the petitioners and defacto complainant has been settled amicably and the second respondent/defacto complainant has no objection to quash the FIR in Crime No.91 of 2018 and to that effect a joint memo of compromise has also been filed on 10.07.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in Crime No.91 of 2018 pending on the file of the first respondent in respect of the petitioners/accused Nos.1 to 5 are hereby quashed.

8. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo filed on 10.07.2018 shall form part of this order.

9. The learned counsel appearing for the petitioners submitted that the petitioners are willing to contribute some amount to the District Legal Services Authority, Pudukottai under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of Rs.2,000/- (Total sum of Rs.10,000/-) 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 District Legal Services Authority, Pudukottai, who shall receive the said amount as "Environmental Fund" and make use of the said amount for the purposes mentioned in the order passed 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 District Legal Services Authority, Pudukottai 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., Consequently, CrI.M.P (MD) No.3743 of 2018 is closed.

Sd/
Assistant Registrar (CO)

/True copy/

WEB COPY

Sub Assistant Registrar (CS-I)

Encl:Xerox Copy of Joint Compromise Memo.
To

- 1.The Inspector of Police,
Melur Police Station,
Madurai 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 District Legal Services Authority,
Puthukottai District.

+1cc to Mr.K.KANNAN, Advocate, SR.No.76382

CrI.O.P. (MD) No.8336 of 2018
01.08.2018

MJ
KK/KAK/SAR-1/03.09.2018/4P-6C