



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

Crl.O.P.(MD).No.8969 of 2018

1.Ananth @ Ananthraj
2.Sankaran @ Sankar
3.Shanmugavel
4.Muthu Selvam

: Petitioners/Accused Nos.1 to 4

Vs.

1.The Sub Inspector of Police
Palayamkottai Police Station,
Tirunelveli City.
(Crime No.247 of 2018)

: 1st respondent/Complainant

2.Subbuthai

: 2nd respondent/De-facto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.247 of 2018 on the file of the 1st respondent police and to quash the same.

For Petitioners
For Respondents

: Mr.S.Sundara Pandian
: Mr.Prabhu Rama Chandran
Government Advocate (Crl. Side) for R1
: Mr.S.Muthukumar for R2.

O R D E R

This petition has been filed seeking to quash the First Information Report in Crime No.247 of 2018 on the file of the 1st respondent police, pursuant to the amicable settlement effected between the parties.

2.The learned counsel appearing for the petitioner further submitted that the petitioners/A1 to A4 was charged for the offences under Sections 294(b), 448, 324, 506(2) I.P.C and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002 and Section 3 of Tamilnadu Public Property (Prevention of Damage and Loss) Act, 1992 and totally, there are 4 accused in this case.

3. The learned counsel appearing for the second respondent/defacto complainant admits that the matter has been compromised between the parties.

4. When the matter is taken up for hearing, the petitioners/accused 1 to 4 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. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

5. The learned counsel appearing on either side filed a joint memo of compromise dated 22.5.2018, duly stating that since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent/defacto complainant has agreed to withdraw the First Information Report in Crime No.247 of 2018 on the file of the 1st respondent police.

6. The parties have filed a joint memo of compromise dated 22.05.2018, wherein, it is stated as follows:

"4.It is submitted that the second respondent as well as the petitioners are hailed from same locality. The elders have advised to settle the above said issue amicably. Hence, without any coercive voluntarily the petitioners herein as well as the second respondent mutually settled the above said issue. The petitioners as well as the second respondent has also entered into a joint Memo of Compromise. Hence, the impugned First Information Report registered in Crime No.247 of 2018 dated 18.04.2018 has to be quashed".

7. 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.

8. Taking note of the judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise dated 22.5.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the First Information Report in Crime No.247 of 2018 on the file of the 1st respondent police in respect of the petitioners/accused 1 to 4 alone, are hereby quashed.

9. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo dated 22.5.2018 shall form part of this order. The petitioners are directed to pay the cost of Rs.3000/- (Rupees three thousand only) each to the Tamil Nadu Mediation and Conciliation Centre, attached to this Bench, under the head of the Infrastructure Fund, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

Enclosure : Xerox Copy of Joint Compromise Memo

To

1.The Sub Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:

The Officer Incharge,
Tamil Nadu Mediation and Conciliation Centre,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.S.Sundara Pandian, Advocate SR.No. 68052

Cr1.O.P.(MD)No. 8969 of 2018

cm

JM/SKN RSK/SAR 4/09.07.2018/4P/5C