



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.9229 of 2018

WEB COPY

1.M.Muniyasamy

2.M.Mookammal

3.M.Sangili

4.M.Lakshmanan

5.A.Nagaraj

... Petitioners/Accused No.1 to 5

vs.

1. The State Rep. by
The Inspector of Police,
Parthibanur Police Station,
Ramanathapuram District.
(Crime No.99 of 2009)

... Respondent/Complainant

2.M.Periyasamy

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the P.R.C.No.08 of 2018, on the file of the learned Judicial Magistrate, Paramakudi and quash the same as illegal.

For Petitioners	: Mr.M.Ramesh
For R1	: Mr.Prabhu Ramachandran
	Government Advocate (Crl.Side)
For R2	: Mr.R.Shenbhagaraj

O R D E R

This petition has been filed seeking to quash the charge sheet filed in P.R.C.No.08 of 2018, on the file of the learned Judicial Magistrate, Paramakudi against the petitioners herein under section 366 A IPC.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.99 of 2009 for the offence punishable under Section 366 A IPC against the petitioners herein. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in P.R.C.No.08 of 2018 by the learned Judicial Magistrate, Paramakudi and for quashing the same, the petitioners and the *defacto* complainant are before this Court on the ground that they have arrived at a compromise.



3. Today, when the matter is taken up for hearing, the Inspector of Police, Parthibanur Police Station, Ramanathapuram District, is present. The petitioners 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 concerned respondent Police, the Inspector of Police, Parthibanur Police Station, Ramanathapuram 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 dated 07.06.2018, wherein, it is stated as follows:

"8. The petitioners and the second respondent submit that on the intervention of the well wishers and the family members we decided to settled the matter amicably. Both of them being relatives and pacified their problems between themselves and in order to curtail unnecessary problems in future we all are decided to compromise within ourselves.

9. The petitioners and the second respondent submits that the petitioners as well as the second respondent are close relatives and in order refresh the relationship and having left with other option this petitioners and the second respondent is entering into this compromise memo.

10. The petitioners and the second respondent submits that on the basis of the advices and in ordr to continue their friendship in future they are filling this compromise memo by applying their mind without any coercion or undue influence or by way of any other sources.

Under these circumstances, it is prayed that this Court may be pleased to record the compromise entered between the petitioners and the second respondent in connection with P.R.C. No.08 of 2018, on the file of the learned Judicial Magistrate, Paramakudi and pass such other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice and thereby render justice. "

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. In support of the case, the learned counsel appearing for the petitioners relied on the following judgments:-

"1. In CrI.O.P.(MD)No.17700 of 2014 (Marimuthu vs. The Inspector of Police), dated 15.10.2014

2. CrI.O.P.(MD)No.4134 of 2017 (Rathies vs. The State Rep. by) dated 17.04.2017.

3. CrI.Misc.No.M-23695 of 2013 (Shamsher Singh and others vs. State of Punjab and another) dated 04.08.2014.

7. Taking note of the judgments referred to *supra*, considering the nature of allegations and in view of the joint memo of compromise dated 07.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. <https://hccservices.ecourts.gov.in/hccservices/> petition is allowed and the entire proceedings in P.R.C.No.08 of 2018 pending on the file of the learned Judicial Magistrate, Paramakudi in respect of the petitioners/Accused Nos.1



to 5 is hereby quashed. The joint compromise memo dated 07.06.2018 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, the petitioners are directed to pay a sum of Rs.2,000/- (Rupees Two Thousand only) each 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/

Sub Assistant Registrar

Encl.: Xerox Copy of Compromise Memo

To

1. The Judicial Magistrate,
Paramakudi.
2. The Inspector of Police,
Parthibanur Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Registrar (Administration),
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr. C. SENTHIL MURUGAN, Advocate Sr.No.68383

Gns/am

MK/SV MMS/SAR 1/28.06.2018/4P/6C

Cr1.O.P. (MD) No.9229 of 2018
14.06.2018