



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMARCrl.O.P.(MD) No.22874 of 2016

Kalaimurugan

.. Petitioner

vs.

1.State rep.by

The Sub Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
Crime No.161 of 2014.

2.Manimegalai

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the charge sheet in C.C.No.232 of 2014 on the file of the Judicial Magistrate Mudhukulathur and quash the same as illegal.

For Petitioner	:	Mr.P.Banuprasath
For R1	:	Mr.Prabhu Ramachandran Government Advocate (Crl.Side)
For R2	:	Mr.K.Sathishkumar

ORDER

This petition has been filed seeking to quash the charge sheet filed in C.C.No.232 of 2014 pending on the file of the Judicial Magistrate Mudhukulathur.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.161 of 2014 for the offence under Sections 294(b), 324 and 506(ii) IPC and Section 4 of Women Harassment Act against the petitioner/sole accused. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in C.C.No.232 of 2014 by the Judicial Magistrate, Muthukulathur and for quashing the same, the petitioner and the defacto complainant are before this Court, stating that amicable settlement has been arrived at between the parties and the second respondent has agreed to quash the proceedings in C.C.No.232 of 2014.

3.Today, when the matter was taken up for hearing, <https://hcservices.ecourts.gov.in/hcservices/> Mr.P.Kasi, the Special Sub Inspector of Police, Sayalkudi Police Station, Ramanathapuram District is present. The defacto



complainant, the petitioners and the injured 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.P.Kasi, the Special Sub Inspector of Police, Sayalkudi Police Station, Ramanathapuram District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4.The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that trial in C.C.No.232 of 2014 is not yet commenced.

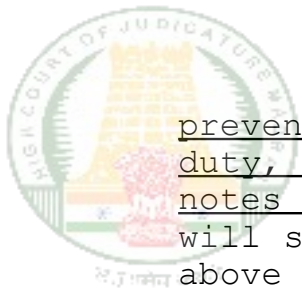
5.The learned counsel appearing for the petitioner and defacto complainant have filed a joint memo of compromise on 02.07.2018, wherein, it is stated as follows:

"2.The petitioner and the 2nd respondent further submit that both are husband and wife. During the pendency of the proceeding, at the intervention of the elders, both the parties have sat together, in which an amicable conclusion has been arrived at and as one part of a conclusion, the 2nd respondent has agreed to say no objection for the purpose of quashing the present criminal proceeding.

3.The petitioner as well as the 2nd respondent jointly submits that such compromise has been taken place purely with an intention to settle all the issues among them and it is purely voluntary by the parties concerned. Hence, in order to avoid further ordeal of trial before the trial Court, they are preferred to be present before this Hon'ble Court whenever it is required. This Hon'ble Court by taking into consideration of the above said aspects with regard to the compromise and in the interest of the parties, can leniently look into the present issue, as such the prayer sought for by the petitioner can be allowed.

6.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,

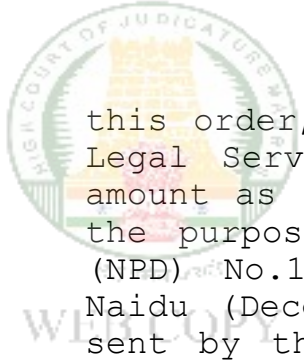


preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, 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."

7. Taking note of the judgments referred to supra, considering the nature of allegations and also taking note of the fact that the petitioner and second respondent are husband and wife and the dispute between them has been settled amicably and to that effect a joint memo of compromise has been filed on 02.07.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in C.C.No.232 of 2014 on the file of the Judicial Magistrate, Muthukulathur in respect of the petitioner/sole accused 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 02.07.2018 shall form part of this order.

9. In this case, the learned counsel appearing for the petitioner submitted that the petitioner is willing to contribute some amount to the District Legal Services Authority, Thiruvavur under the Head "Environmental Fund" to preserve the environment. Hence, petitioner is directed to remit a sum of Rs.3,000/- as costs within a period of one week from the date of receipt of a copy of



this order, by way of Demand Draft drawn in favour of the District Legal Services Authority, Thiruvarur, who shall receive the said amount as "Environmental Fund" and make use of the said amount for the purposes mentioned in the order passed by this Court 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, Thiruvarur 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.,

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-II)

Encl:Xerox Copy of Joint Compromise Memo dated 02.07.2018

To

- 1.The Sub Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram 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 Authorities,
Thiruvarur

Cr1.O.P.(MD) No.22874 of 2016
19.07.2018

mj

RAM/SKN RSK/SAR 2/31.07.2018/4P/5C