



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.9230 of 2018

1.Sathish Kumar
2.Vairamuthu @ Vairam
3.Paneer Selvam

... Petitioners/Accused Nos.1 to 3

vs.

1. State rep by
The Inspector of Police,
Othakkadai Police Station,
Madurai District.
Crime No.490 of 2016

... 1st Respondent/Complainant

2. Dr.Sujatha

... 2nd 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 case in P.R.C.No.12 of 2018 on the file of the learned Judicial Magistrate, Melur, Madurai District and quash the same.

For Petitioner	: Mr.B.Jameel Arasu
For R1	: Mr.Prabhu Ramachandran Government Advocate (Crl.Side)
For R2	: Mr.K.Rajesh

O R D E R

This petition has been filed seeking to quash the charge sheet filed in P.R.C.No.12 of 2018 on the file of the learned Judicial Magistrate, Melur, Madurai District against the petitioners herein under sections 147, 294(b), 506(ii) and Section 3 of Tamilnadu Medicare Service persons & Medicare Service Institution (Prevention of Violence and Damage or Loss to Property) Act 2008.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.490 of 2016 for the offences punishable under Sections 147, 294(b), 506(ii) and Section 3 of Tamilnadu Medicare Service persons & Medicare Service Institution (Prevention of Violence and Damage or Loss to Property) Act 2008 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.12 of 2018 by the Judicial Magistrate, Melur, Madurai District 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.

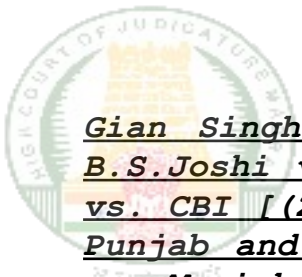
3. Today, when the matter is taken up for hearing, Mr.S.Singaraj, Sub-Inspector of Police, Othakkadai Police Station, Madurai District, is present. The petitioners and the second respondent appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the Government Advocate (Crl.Side) through the respondent Police, namely, Mr.S.Singaraj, Sub-Inspector of Police, Othakkadai Police Station, Madurai 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 02.06.2018, wherein, it is stated as follows:

"It is further submitted that as against the activities did by the petitioners herein, the second respondent lodged a complaint before the 1st respondent police and it's on pending investigation. But now both parties agreed to consented for amicable settlement. Therefore the defacto complainant/2nd respondent is agreed and extending her full consent for quashment of proceeding in connection with pending in PRC(No).12 of 2018 on the file of the learned Judicial Magistrate, Melur, Madurai District. It is also made clear that the 2nd respondent has not received any cash or kind for consenting the compromise. Accordingly both parties have compromised themselves. It is pertinent out mention that both parties are not interested to proceed with further the case against with each other. Hence it is just and necessary to file this compromise memo before this Hon'ble Court and record the same and dispose of the above Criminal original petition.

It is therefore prayed that this Hon'ble Court may be pleased to record the above compromise arrived between the petitioners and the defacto complainant amicably and prays this Hon'ble Court to quash in PRC (No).12 of 2018 on the file of the learned Judicial Magistrate, Melur, Madurai District and allow the Criminal original petition and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus 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. Taking note of the judgments referred to *supra*, considering the nature of allegations and in view of the joint memo of compromise dated 02.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, this petition is allowed and the entire proceedings in P.R.C.No.12 of 2018 pending on the file of the Judicial Magistrate Melur, Madurai District in respect of the petitioners/Accused Nos.1 to 3 is hereby quashed. The joint compromise memo dated 02.06.2018 shall form part of this order.

<https://hcservices.ecourts.gov.in/hcservices/>

7. 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.

8. Accepting the submission, the petitioners are directed to pay a sum of Rs.3,000/- (Rupees Three 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.

Encl.: Xerox copy of Compromise Memo

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate
Melur, Madurai District.
2. The Inspector of Police,
Othakkadai Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.B.JAMEEL ARASU, ADVOCATE IN SR No. 68517

GNS/AM

TE/JC/SAR-3 : 28/06/2018 : 4P/6C

Cr1.O.P. (MD) No.9230 of 2018
14.06.2018