



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2018

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P.(MD)No.9542 of 2018

V.Ajikumar @ AjithKumar

.. Petitioner/Sole Accused

Vs.

1.The State rep.by

The Inspector of Police,
Eppodumvendran Police Station,
Eppodumvendran,
Thoothukudi District

Crime No.39 of 2018.

Complainant

..1st Respondent /

2.Judu Prasath

.. 2nd Respondent /Defacto
Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.39 of 2018 on the file of the respondent police and quash the same.

For Petitioner : Mr.P.Banuprasath

For R1 : Mr.Prabhu Ramachandran
Government Advocate (Crl. Side)

For R2 : Mr.K.Kulanthai Vikram

O R D E R

This petition has been filed seeking to quash the FIR, registered against the petitioner in Crime No.39 of 2018 by the first respondent on 21.05.2018.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Cr.No.39 of 2018 for the alleged offence punishable under Sections 279 and 337 IPC against the petitioner/sole accused and in order to quash the same, the petitioner and the defacto complainant are before this Court on the ground that they have arrived at a compromise.



3.Today, when the matter was taken up for hearing, Mr.V.Arumugam, the Special Sub Inspector of Police, Eppodumvendran Police Station, Eppodumvendran, Thoothukudi District is present. The defacto complainant and the petitioner 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.V.Arumugam, the Special Sub Inspector of Police, Eppodumvendran Police Station, Eppodumvendran, Thoothukudi District. Learned counsel appearing for the parties also endorsed the identity of their respective parties.

4.The learned counsel appearing for the petitioner filed this quash petition along with a joint memo of compromise filed on 11.06.2018, wherein, it is stated as follows:

"5.It is submitted that as far as the petitioner is concerned, as the second respondent herself has realised the fact that despite her non investment, because of the scenario that has been prevailed at that point of time, she was made to be included in this case, she has now come forward to make it very clear that she is no way concerned with the accusation referred to in the present case and further the second respondent has sensed the said fact as an additional factum to decide the solution of compromise. Hence, the petitioner and the second respondent would jointly make a request before this Hon'ble Court through this compromise memo that neither the registration of the said FIR nor the consequences arose therefrom would not be taken as an adverse impacting factor in the petitioner's future career as well as upon her service.

Therefore, it is prayed that this Hon'ble Court may be pleased to accept the present joint compromise memo and quash the FIR in Crime No.39 of 2018 on the file of the 1st respondent police herein, pursuant to the compromise arrived at by the parties."

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 Mehta vs. State of Haryana [(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 filed on 11.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in FIR No.39 of 2018 pending on the file of the first respondent in respect of the petitioner/sole accused are hereby quashed.

7. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo filed on 11.06.2018 shall form part of

8. At the instance of the learned counsel for the



petitioner, the petitioner himself voluntarily came forward to contribute some amount to the Mediation and Conciliation Centre attached to this Bench.

9. Accepting the submission, the petitioner is directed to pay a sum of Rs.5,000/- (Rupees five thousand only) 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-I)

/True copy/

Sub Assistant Registrar

Encl : Joint Compromise Memo, dated 11.06.2018

To

1. The Inspector of Police,
Eppodumvendran Police Station,
Eppodumvendran,
Thoothukudi District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to :

1. The Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.
2. The Officer Incharge,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Banuprasath, Advocate, SR.No.69445.

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