



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.9520 of 2018

1.Sridhar

2.Hemamalini

...Petitioners/Accused Nos.1 and 2

vs.

1.State represented by
The Inspector of Police,
Central Crime Branch,
Madurai District.
(Crime No.23/2008)

2.Dhakshanamoorthy

... Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to admit this quash petition and call for the records in C.C.No.133 of 2012 on the file of the Judicial Magistrate No.1, Madurai District.

For Petitioners : M/s.A.Banumathy

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

For R2 : Mr.S.T.Sasidharan Tamil Kani

O R D E R

This petition has been filed seeking to quash the charge sheet filed in C.C.No.133 of 2012 on the file of the Judicial Magistrate No.I, Madurai District against the petitioners herein under sections 406, 465, 468 and 471 of I.P.C.,

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.23 of 2008 for the offence punishable under Sections 406, 465, 468 and 471 of I.P.C., against the petitioners herein. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in C.C.No.133 of 2012 by the Judicial Magistrate No.I, 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 compromise.



3.Today, when the matter is taken up for hearing, Mr.Dinakaran, Special Sub-Inspector of Police, Central Crime Branch, 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.Dinakaran, Special Sub-Inspector of Police, Central Crime Branch, 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 on 07.06.2018, wherein, it is stated as follows:

2.It is submitted that during the pendency of the criminal case a compromise was reached between the 2nd respondent/de-facto complainant and the petitioners herein in the presence of mediators who are well wishers of our families. In the light of compromise we have decided to resolve the issues. The second respondent has not preceded with the criminal case any further either against the petitioners herein.

3.The petitioners as well as the 2nd respondent jointly submits that such compromise has been taken place purely with an intention to settle this case among them and it is purely voluntarily by the parties concerned. Hence, in order to avoid further investigation they are preferred to be present before this consideration of the above said aspects with regard to the compromise and in the interest of the parties, can leniently look into present issue, as such as prayer sought for by the petitioner can be allowed.

Therefore, it is prayed that the petitioner as well as second respondent jointly pray that this Hon'ble Court may be pleased take into consideration of the present joint compromise memo and quash the case in C.C.No.133 of 2012 on the file of the Judicial Magistrate No.1, Madurai District.

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 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 07.06.2018, 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 C.C.No.133 of 2012 pending on the file of the Judicial Magistrate No.I, Madurai District in respect of the petitioners/accused Nos.1 and 2 are hereby quashed. The joint compromise memo filed on 07.06.2018 shall form part of this order.

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, each the petitioner is directed to pay a sum of Rs.5,000/- (Total sum of Rs.10,000/-) 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)

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/True copy/

Sub Assistant Registrar

Encl: Xerox Copy of Joint Compromise Memo.

To

1. The Judicial Magistrate, No.I,
Madurai District.
2. The Inspector of Police,
Central Crime Branch,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.
5. The Administrator,
Mediation & Conciliation Center,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.A.Banumathy, Advocate, SR.No.69043.

Cr1.O.P.(MD) No.9520 of 2018

cp/mj

RAM/VR/SAR 2/06.07.2018/4P/7C