



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2018

CORAM

**THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

Crl.O.P.(MD) No.9640 of 2018

1.Mayandi @ Sudalayandi  
2.U.Manikandan  
3.A.Karthik  
4.A.Murali @ Muralitharan .. Petitioners/Accused Nos.1 to 4

**vs.**

1. The State rep.by  
The Special Sub Inspector of Police,  
Achanpudur Police Station,  
Tirunelveli District.  
Crime No.15 of 2017. .. 1<sup>st</sup> Respondent/Complainant

2. Samy @ Madasamy .. 2<sup>nd</sup> Respondent/Defacto Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in STC No.913 of 2018 on the file of the District Munsif - cum - Judicial Magistrate, Sengottai and to quash the same.

For Petitioners : Mr.S.Kumar  
For R1 : Mr.Prabhu Ramachandran  
Government Advocate (Crl.Side)  
For R2 : Mr.Esakki

**ORDER**

This petition has been filed seeking to quash the proceedings in STC No.913 of 2018 on the file of the District Munsif - cum - Judicial Magistrate, Sengottai.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.15 of 2017 for the offence punishable under Sections 294(b), 323 and 506 (ii) IPC against the petitioners herein. After completing investigation, the first respondent has filed final report and the same has been taken on file in STC No.913 of 2018 on the file of the District Munsif - cum - Judicial Magistrate, Sengottai and for quashing the same, this petition has been filed.

3.The parties have filed a joint memo of compromise on



25.06.2018, wherein, it is stated as follows:

"2.It is submitted that the matter has been amicably settled between the petitioners and the defacto complainant and hence this compromise memo has been filed before this Hon'ble court.

3.It is submitted that whereas at the intervention and mediation by the elders in the village, the dispute is resolved between the parties.

4.It is submitted that the defacto complainant undertakes not to proceed with the criminal case against the petitioners at any point of time for this cause.

For the foregoing reasons it is prayed that this Hon'ble Court may be graciously pleased to accept the compromise memo and quash the proceedings in STC No.913 of 2018 on the file of the District Munsif - cum - Judicial Magistrate, Sengottai ."

4.Today, when the matter is taken up for hearing, Mr.A.Samuel Raj, Special Sub-Inspector of Police, Achanpudur Police Station, Tirunelveli 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.A.Samuel Raj, Special Sub-Inspector of Police, Achanpudur Police Station, Tirunelveli District. Learned counsel appearing for the parties also endorsed the identify of their respective 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 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 filed on 25.06.2018, 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 STC No.913 of 2018 on the file of the District Munsif - cum - Judicial Magistrate, Sengottai. in respect of the petitioners/accused Nos.1 to 4 are hereby quashed. The joint compromise memo filed on 25.06.2018 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 petitioner is directed to pay a sum of Rs.5,000/- (Total sum of Rs.20,000/-) 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.

**Encl.: Xerox copy of Compromise Memo**

Sd/-  
Assistant Registrar (CS-II)



**To**

1. The District Munsif - cum - Judicial Magistrate,  
Sengottai.
2. The Special Sub Inspector of Police,  
Achanpudur Police Station,  
Tirunelveli District.
3. 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-in-charge,  
Mediation and Conciliation Centre,  
Madurai Bench of Madras High Court,  
Madurai.

MJ

TE/SKN-RSK/SAR-4 : 06/07/2018 : 4P/6C

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26.06.2018