



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.9731 of 2018

- 1.Arumuga Vadivu
- 2.Arumuga Nainar
- 3.Murugan
- 4.Ashok
- 5.Suresh
- 6.Thangadurai

.. Petitioners/Accused 1 to 6

vs.

1. State rep.by
The Inspector of Police,
Seidunganallur Police Station,
Tuticorin District.
Crime No.73 of 2016

.. 1st Respondent/Complainant

2. Saravanan

..2nd Respondent/Defacto Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the entire records in relating to the impugned charge sheet in P.R.C.No.49 of 2017 on the file of the Judicial Magistrate, Srivaikuntam and to quash the same.

For Petitioners : Mr.A.Karthik

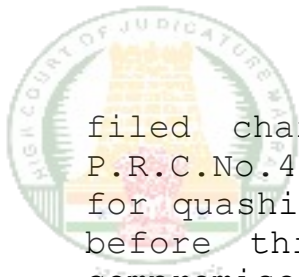
For R1 : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)

For R2 : Mr.M.S.Jeyakarthik

O R D E R

This petition has been filed seeking to quash the charge sheet filed in P.R.C.No.49 of 2017 on the file of the Judicial Magistrate, Srivaikundam on the ground that the parties have arrived at a compromise.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.73 of 2016 for the offence punishable under Sections 147, 148, 311, 294(b), 323, 342, 307 & 506(ii) IPC 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.49 of 2017 by the Judicial Magistrate, Srivaikundam and for quashing the same, the petitioners and defacto complainant are before this Court on the ground that they have arrived at a compromise.

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3.At this juncture, the learned counsel appearing for the petitioners submitted that the second petitioner is working in Indian Army and he is not in a position to appear before this Court. Hence, he seeks permission of this Court to not press the petition in respect of the second petitioner is concerned. He has also made an endorsement to that effect.

4.In view of the above submission and endorsement made by the learned counsel appearing for the petitioners, this petition is liable to be dismissed in respect of the second petitioner.

5.Today, when the matter was taken up for hearing, Mr.Ananthamuthuraman, the Special Sub Inspector of Police, Seidunganallur Police Station, Tuticorin District is present. The defacto complainant and the petitioners 1, 3 to 6 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.E.Periyasamy, the Special Sub Inspector of Police, Kanyakumari Police Station, Kanyakumari District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

6.Under normal circumstances, the proceedings pending under Section 307 of the Indian Penal Code should not be mechanically quashed, just because the parties have arrived at a compromise. However, in this case, the petitioners and defacto complainant/second respondent are neighbours and the injury sustained by the second respondent/defacto complainant is not grievous in nature.

7.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise filed on 12.06.2018, wherein, it is stated as follows:

"3.It is most respectfully submitted that after the registration of the above FIR, the 1st respondent police laid charge sheet as against these petitioners before the learned Judicial Magistrate, Srivaikundam for the alleged offences under Sections 147, 148, 341, 294(b), 323, 342, 307 & 506(ii) IPC and the same was numbered in P.R.C.No.49 of 2017.

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

4.It is most respectfully submitted that when the above criminal case is pending adjudication before



the Judicial Magistrate, Srivaikundam, due to the intervention of the friends and elder members of locality, the petitioners and the 2nd respondent entered into compromise. Hence, they voluntarily settled their dispute amicably. Moreover, the 2nd respondent did not want to proceed further the above criminal case against the petitioners. Further, the 2nd respondent has no objection for quashing the above criminal case as against the petitioners. Therefore, in these above facts and circumstances, the petitioners are seeking quash the above criminal case in P.R.C.No.49 of 2017 on the file of the learned Judicial Magistrate, Srivaikundam."

8. 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."

9. Taking note of the judgments referred to *supra*, considering the nature of allegations and in view of the joint memo of compromise filed on 12.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in P.R.C.No.49 of 2017 on the file of the Judicial Magistrate, Srivaikundam are hereby quashed only in respect of the petitioners 1, 3 to 6/accused Nos.1, 3 to 6.

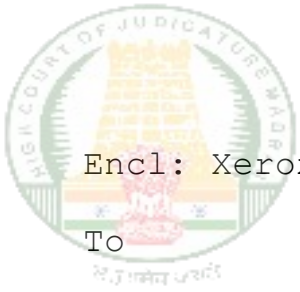
10. Accordingly, this Criminal Original Petition is allowed in respect of the petitioners 1, 3 to 6, on the basis of the compromise entered into between the parties. The joint compromise memo filed on 12.06.2018 shall form part of this order. This petition is dismissed as not pressed in respect of the second petitioner is concerned.

11. In this case, the learned counsel appearing for the petitioners submitted that the petitioners 1, 3 to 6 are willing to contribute some amount to the District Legal Services Authority, Thanjavur under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of Rs.3,000/- (Total sum of Rs.15,000/-) as costs within a period of two weeks from the date of receipt of a copy of this order, by way of an individual/collective **Demand Draft** drawn in favour of the District Legal Services Authority, Thanjavur, 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, Thanjavur 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(P&A)

/True Copy/



Encl: Xerox copy of joint compromise memo

To

1. The Judicial Magistrate, Srivaikuntam
2. The Inspector of Police,
Seidunganallur Police Station,
Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Member Secretary, Tamil Nadu State
Legal Services Authority, Chennai.
5. The District Legal Services Authority, Thanjavur

+1cc to Mr.M.S.Jeyakarthik, Advocate Sr.No.71439

MJ

VB/SKN/RSK/SAR4/03.08.2018/5P/7C

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