



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.9751 of 2018

1.Murugan
2.Suresh
3.Vijayakumar
4.Rajkumar
5.Sasikumar
6.Kannan
7.Ramesh
8.Chandrakumar

.. Petitioners

vs.

1.The State of Tamil Nadu
rep. through its Inspector of Police,
Palavoor Police Station,
Tirunelveli District,
Crime No.259 of 2011.

2.Satheesh

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to quash the charge sheet in S.C.No.664/2017 dated 15/11/2017 U/s. 147, 148, 294(b), 323, 336, 506(ii) of IPC and Sec.4 of TNPWH Act pending on the file of Additional District Judge No.IV, Tirunelveli filed in FIR in Crime No.259/2011 on 06.12.2011 registered on the file of the first respondent police on the basis of the Joint Compromise Memo filed by the petitioners and 2nd respondent herein.

For Petitioners	:	Mr.P.M.Vishnuvarthanan
For R1	:	Mr.Prabhu Ramachandran
		Government Advocate (Crl.Side)
For R2	:	Mr.M.Balakrishnan

O R D E R

This petition has been filed seeking to quash the charge sheet filed in S.C.No.664 of 2017 dated 15.11.2017 on the file of the Additional District Judge No.IV, Tirunelveli, on the basis of the Joint Compromise Memo filed by the petitioners and second respondent herein.



2. On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.259 of 2011 for the offence punishable under Sections 147, 148, 294(b), 323, 336, 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, against the petitioners herein. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in S.C.No.664 of 2017 by the Additional District Judge No.IV, Tirunelveli 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. Further, this is a case in counter.

3. Today, when the matter is taken up for hearing, Mr.I.Amuthan, Special Sub-Inspector of Police, Palavoor 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.I.Amuthan, Special Sub-Inspector of Police, Palavoor Police Station, Tirunelveli 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 05.06.2018, wherein, it is stated as follows:

"3. At the intervention of the elder family members of either family, the petitioners and the 2nd respondent and his family members amicably settled the issue between them, particularly for the benefit of the 2nd respondent and his future life. The 2nd respondent is now willing to withdraw his complaint lodged against the petitioners, as the petitioners tender unconditional apologise before entire family members. Therefore, both not willing to precipitate the issue further and both wants to give quietus to the entire issue and to have a peaceful future. As both the petitioners and the 2nd respondent are relatives, belongs to the same village and residing nearby.

4. The 2nd respondent has filed separate affidavit before this Hon'ble Court stating his willingness to settle the matter amicably and both have also consciously fixed their signature in the joint compromise memo filed along with this quash petition before this Hon'ble Court and in view of the joint compromise memo as well as on the aforesaid affidavit of the defacto complainant dated 01.06.2018, no further adjudication or progress is required in the above matter.

It is therefore, prayed that this Hon'ble Court may be pleased to quash the charge sheet in S.C.No.664/2017



dated 15/11/2017 U/s. 147, 148, 294(b), 323, 336, 506(ii) of IPC and Sec.4 of TNPWH Act pending on the file of Additional District Judge No.IV, Tirunelveli, filed in FIR in Crime No.259/2011 registered on the file of the first respondent police on the basis of the Joint Compromise Memo filed by the petitioners and 2nd respondent herein. "

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 05.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending.

7. At this juncture, the learned Government Advocate (Crl.Side) appearing for the first respondent submitted that Non Bailable Warrant has been issued against the petitioners and the same is pending. Further it is submitted that trial in S.C.No.664 of 2017 is also pending.

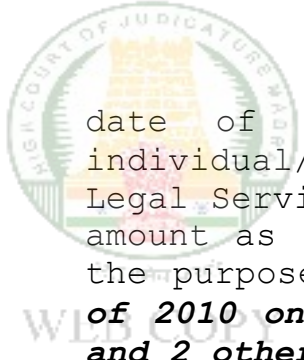
8. The learned counsel appearing for the petitioners submitted that taking note of the fact that the dispute between the parties has already been settled and to that effect joint compromise memo has also been filed, the proceedings pending in S.C.No.664 of 2017 on the file of the Additional District Judge, No.IV, Tirunelveli may be quashed. In the meantime, the petitioners will take steps to recall the Non Bailable Warrant, pending against them. Further it is requested that this Court may post this matter next week for reporting compliance.

9. In view of the above submission made by the learned counsel appearing for the petitioners, this Court is inclined to quash the proceedings in S.C.No.664 of 2017.

10. In fine, this petition is allowed and the entire proceedings in S.C.No.664 of 2017 pending on the file of the Additional District Judge, No.IV, Tirunelveli in respect of the petitioners/accused Nos.1 to 8 are hereby quashed. However, it is made clear that if the Non Bailable Warrant issued against the petitioners is not recalled at the instance of the petitioners, the order passed in this petition based on the compromise memo shall stand automatically revoked. The joint compromise memo filed on 05.06.2018 shall form part of this order.

11. This Court, while disposing of **CRP (NPD) No.1643 of 2010 on 20.06.2018 [D.Govindasamy Vs. L.Ganesh Naidu (Deceased) and 2 others]**, directed the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai to open a separate account under the head "Environmental Fund", so as to receive the amounts to be awarded as costs by various courts under this head, for making use of the same for the purposes mentioned therein.

12. In this case, the learned counsel appearing for the petitioners submitted that the petitioners are willing to contribute some amount to the District Legal Services Authority, Theni under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of Rs.5,000/- (Rupees Five Thousand only) 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, Theni District, who shall receive the said amount as "Environmental Fund" and make use of the said amount for the purposes mentioned in the abovesaid order 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, Theni District to the Member Secretary, Tamil Nadu State Legal Services Authority, Chennai, mentioning clearly the amounts spent towards the purposes mentioned above and the balance amount left etc.,

13.Post the matter for reporting compliance on 04.07.2018.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

Encl.:-

Xerox copy of Compromise memo.

To

1. The Additional District Judge No.IV,
Tirunelveli.
2. The Inspector of Police,
Palavoor Police Station,
Tirunelveli 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,
Theni District.

MJ

RJ/RP/SAR-3/17/07/2018 - 5P/6C

Cr1.O.P. (MD) No.9751 of 2018
26.06.2018