



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

CRL.O.P.(MD)No.9772 of 2018

1.Jesupam @ Jesupan

2.Yesuraj

3.Ananth

4.Paulraj

... Petitioners/Accused 1 to 4

Vs.

1. The State rep.by

The Inspector of Police,

Panagudi Police Station,

Tirunelveli District

Crime No.283 of 2018.

... Respondent/Complainant

2.Mohan

... 2nd Respondent/Defacto
Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the FIR in Crime No.283 of 2018 on the file of the Inspector of Police, Panagudi Police Station, Tirunelveli District and quash the same.

For Petitioner

: Mr.A.Kesavan

For R1

: Mr.Prabhu Ramachandran

Government Advocate (Crl. Side)

For R2

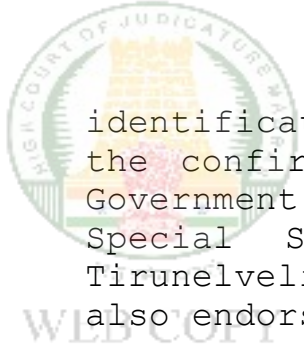
: M/s.Kanchammal

ORDER

This petition has been filed seeking to quash the FIR, registered against the petitioners in Crime No.283 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.283 of 2018 for the alleged offence punishable under Sections 294(b), 352 and 506(ii) IPC against the petitioners/accused Nos. 1 to 4 and in order to quash the same, the petitioners 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.P.Yesudass, the Special Sub Inspector of Police, Panagudi Police Station, Tirunelveli District is present. The *defacto* complainant and the petitioners 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.P.Yesudass, the Special Sub Inspector of Police, Panagudi Police Station, Tirunelveli District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

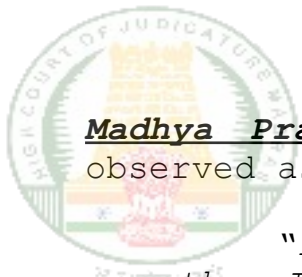
4.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise filed on 13.06.2018, wherein, it is stated as follows:

"2.The petitioners and 2nd respondent jointly submit that during the pendency of the same, the petitioner and the 2nd respondent have been made to sit together towards having a compromise talk in which both of them have realised the hardship and difficulty in view of the pendency of the criminal case registered against him and all of them want to settle the present issue and hence the 2nd respondent has taken a firm decision so as to withdraw the present prosecution, as a result of which the present move of quash petition on the ground of compromise is made before this Hon'ble Court.

3.The petitioners and the 2nd respondent jointly submit that as an outcome of such compromise, the 2nd respondent undertakes to appear before this Hon'ble Court and would give consent to quash the FIR in Crime No.283 of 2018 pending on the file of the first respondent police. He would also make it very clear that for taking such decision, he is not being influenced and absolutely there is no coercion or outer force inflicted upon him, but such decision has been taken purely on his own volition.

The petitioners and 2nd respondent jointly pray that this Hon'ble Court may be pleased to take into consideration of the present joint compromise memo and to quash the FIR in Crime No.283 of 2018 on the file of the Inspector of Police, Panagudi Police Station, Tirunelveli 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 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 13.06.2018, 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.283 of 2018 pending on the file of the first respondent in respect of the petitioners/Accused Nos.1 to 4 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 13.06.2018 shall form part of



this order.

8. 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.

9. Accepting the submission, each petitioner is directed to pay a sum of Rs.1,000/- (Total sum of Rs.4,000/-) 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(CO)

/True Copy/

Sub Assistant Registrar

Encl.: Xerox Copy of Joint Compromise Memo

To

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

Copy to:

The Registrar(Administration),
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Kesavan, Advocate Sr.No.69261

mj

MK/SV MMS/SAR 1/27.06.2018/4P/5C

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21.06.2018