



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.10413 of 2018

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1. P.Andrews Clinton @ Kilindon
2. S.Jerishdev Ishwar @ Jaswar
3. Jebahar Raj @ Jawahar
4. J.Damian Rosari @ Thamyam .. Petitioners/Accused 1 to 4

Vs.

1. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District,
Crime No.69 of 2018. ...Respondent/Complainant

2. I.Pani Jawarin 2nd Respondent/De-facto Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the First Information Report in Crime No.69 of 2018 U/ss.341, 294 (b), 323 and 506 (ii) of IPC dated 12.03.2018 on the file of the first respondent and quash the same.

For Petitioners	:	Mr.I.Pinaygash
For R1	:	Mr.Prabhu Ramachandran
		Government Advocate (Crl.Side)
For R2	:	Mr.M.Sethupathi

ORDER

This petition has been filed seeking to quash the First Information Report registered in Crime No.69 of 2018 for the offence under Sections 341, 294 (b), 323 and 506 (ii) IPC dated 12.03.2018 on the file of the first respondent.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.69 of 2018 for the offence under Sections 341, 294 (b), 323 and 506 (ii) IPC against the petitioners/accused Nos.1 to 4 and in order to quash the same, the petitioners are before this Court by filing the present petition, on the ground that both the parties have arrived at a compromise.

3.Today, when the matter was taken up for hearing, Mr.E.Periyasamy, the Special Sub Inspector of Police, Kanyakumari Police Station, Kanyakumari 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.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.

4.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise filed on 21.06.2018, wherein, it is stated as follows:

"4.That now both the defacto complainant and the petitioners of the instant quash petition have settled the issue outside the court amicably in the presence of elderly persons and solved the dispute in unequivocal terms. It is pertinent to note that presently the petitioners and the defacto complainant having good relationship with each others and now there is no problem between the petitioners and the defacto complainant.

5.Therefore, this Hon'ble Court may be pleased to quash the same on the ground that both of them expressed in unequivocal terms that we have signed in the joint compromise memo on our own will and volition. Since having regard to the terms of the compromise that it is humble respect that no useful purpose will be served by keeping this matter pending. That the petitioners have settled the dispute amicably with the defacto complainant out of the court. Hence, the first information report may be quashed on the ground that the matter has been settled."

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 21.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in Crime No.69 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 21.06.2018 shall form part of this order.

8. At this juncture, 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.2,000/- (Total sum of Rs.8,000/-) 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, Theni District, 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, Theni District 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.,

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Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-I)

Encl: Xerox copy of the Joint Compromise Memo

To

1. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
3. The Member Secretary, Tamil Nadu State
Legal Services Authority, Chennai.
4. The District Legal Services Authority,
Theni District.

+1CC to Mr.I.Pinaygash, Advocate, SR.No. 71344

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04.07.2018

MJ

ES/PN/SAR 1/25.07.2018/4P/6C