



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.O.P. (MD) No.9929 of 2018

1. Thomas @ Thomas Pandian
2. Abraham
3. M. Ramakrishnan
4. Sethuraj

.. Petitioners/Accused 1 to 4

Vs.

1. State rep. by its
The Inspector of Police,
Sankarankovil Taluk Police Station,
Tirunelveli District.
(Crime No.195/2017)

.. 1st Respondent/Complainant

2. A. Gomathisankar

.. 2nd Respondent/Defacto
complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for records in Crime No.195 of 2017 on the file of 1st respondent police and quash the same.

For Petitioners	: Mr.R.J.Karthick
For R1	: Mr.Prabhu Ramachandran Government Advocate (Crl. Side)
For R2	: Mr.P.T.Rameshraj

O R D E R

This Criminal Original Petition has been filed to quash the FIR registered against the petitioners in Crime No.195 of 2017 by the first respondent.

2. On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Cr.No.195 of 2017 for the alleged offence punishable under Sections 447, 294(b), 323 and 506(ii) of I.P.C., 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.

3. At this juncture, the learned Government Advocate (Crl.side) appearing for the first respondent submitted that investigation in Cr.No.195 of 2017 has been completed and charge



sheet has been filed before the concerned Court, but the same has not been taken on file. Therefore, the relief sought by the petitioner cannot be granted.

4. The learned counsel appearing for the petitioner would submit that the entire dispute between the petitioners and second respondent is settled amicably out of Court and to that effect a memo of compromise has also been filed on 18.06.2018. Therefore, it would suffice if the FIR in Crime No.195 of 2017 is quashed and the final report filed by the respondent police need not be quashed. If any consequence arises in future based on the filing of charge sheet, the parties shall take responsible and they will not claim any right on the basis of the quashing of FIR. Recording the said submission, this Court is inclined to quash the proceedings in FIR No.195 of 2017.

5. When the matter was taken up for hearing, Mr.S.Arumugam, the Special Sub Inspector of Police, Sankarankovil Taluk 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.S.Arumugam, the Special Sub Inspector of Police, Sankarankovil Taluk Police Station, Tirunelveli District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

6. The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise dated 18.06.2018, wherein, it is stated as follows:

"2. Both the parties submits that now the entire dispute between the petitioners and the second respondent is settled amicably out of the Court at the instance of the elder members of their family. The second respondent/complainant herein agrees to compound the case pending in Crime No.195 of 2017 on the file of first respondent police and expresses his no objection to quash the above case as against the petitioners herein"

It is therefore prayed that this Hon'ble Court may be pleased to record the above Joint compromise memo file by the petitioners and the second respondent herein and pass any further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

7. 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."

8. Taking note of the judgments referred to *supra*, considering the nature of allegations and in view of the joint memo of compromise filed on 18.06.2018 and also in view of the above submission of the learned counsel for the petitioners, 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.195 of 2017 pending on the file of the first respondent in respect of the petitioners/accused Nos.1 to 4 are hereby quashed.

9. Accordingly, this Criminal Original Petition is allowed



on the basis of the compromise entered into between the parties. The joint compromise memo filed on 18.06.2018 shall form part of this order.

10. 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.

11. Accepting the submission, each petitioner is directed to pay a sum of Rs.3,000/- (Total sum of Rs.12,000/-) 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 (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Snakarankovil Taluk Police Station,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
3. The Registrar (Administration),
Madurai Bench of Madras High Court,
Madurai.

Copy To:-

The Section Officer,
Mediation and Conciliation Centre,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.J.KARTHICK, ADVOCATE IN SR No. 68991

CP/MJ

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