



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMARCr1.O.P.(MD) No.10520 of 2018

1.Rajasekaran
2.Rajamani
3.Rajmohan
4.Parameshwari
5.Selvakumar

.. Petitioners

vs.

1.State rep.by
The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai District.
Crime No.22 of 2014

2.Thenmozhi Revathi

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records relating to the final report against the petitioners in C.C.No.168/2016 on the file of the Additional Mahila Court (Judicial Magistrate Cadre), Madurai in Crime No.22 of 2014 on the file of 1st respondent police and quash the same.

For Petitioners	:	Mr.P.P.Illaiyarasu
For R1	:	Mr.K.Suyambulinga Bharathi Government Advocate (Cr1.Side)
For R2	:	Mr.R.Udhayakumar

O R D E R

This petition has been filed seeking to quash the charge sheet filed in C.C.No.168 of 2016 on the file of the Additional Mahila Court (Judicial Magistrate Cadre), Madurai 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.22 of 2014 for the offence punishable under Sections 498(A) and 406 @ 498 (A) and 406 IPC and Section 4 of Dowry Prohibition Act, against the petitioners herein. After completing investigation, the first respondent has filed charge sheet and the same has been taken on file in C.C.No.168 of 2016 by the Additional Mahila Court (Judicial



Magistrate Cadre), Madurai and for quashing the same, the petitioners and 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, Mrs.R.Thangavelu, Sub Inspector of Police, Thirupparankundram, Madurai 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 Mrs.R.Thangavelu, Sub Inspector of Police, Thirupparankundram, Madurai District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4.The learned counsel appearing for the defacto complainant filed a joint memo of compromise on 29.06.2018, wherein, it is stated as follows:

"3.It is respectfully submitted that on the advice of elders of each family members, the 1st petitioner and the defacto complainant jointly reunion of life in peacefully. Further the 1st petitioner and the defacto complainant are temporarily residing at separate house at LKT Nagar, nearby Velammal Engineering College, Madurai and petitioner and the defacto complainant have entered into compromise with regard to the said case and they themselves settle their disputes amicably in outside of the court.

4.It is respectfully submitted that the defacto complainant is ready and willing to compromise the case which arose at her complaint and she has given her full consent and thereby she has made her signature in the compromise memo.

It is therefore prayed that the Hon'ble Court may be pleased to record this joint compromise memo in CrI.O.P(MD)No.10520 of 2018 and quash the final report filed in C.C.No.168 of 2016 on the file of the Additional Mahila Court (Judicial Magistrate Cadre), Madurai in Crime No.22 of 2014 on the file of the respondent police.

5.When such a situation arose in similarly placed matters in CrI.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. In the case on hand, the second respondent/defacto complainant is the wife of the first petitioner and the other petitioners are the family members of the first petitioner. Now the second respondent and first petitioner are living together and the second respondent/defacto complainant has no objection to quash the case in C.C.No.168 of 2016.

7. Considering the aforesaid fact, the nature of allegations, and taking note of the judgments referred to supra and the joint memo of compromise filed on 29.06.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in C.C.No.168 of 2016 on the file of the Additional Mahila Court (Judicial Magistrate Cadre), Madurai in respect of the petitioners/accused Nos.1 to 5 are hereby quashed.



8. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo filed on 29.06.2018 shall form part of this order.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-III)

Enclosure: Xerox Copy of Joint Compromise Memo

To

1. The Additional Mahila Court (Judicial Magistrate Cadre),
Madurai.
2. The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.10520 of 2018

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JM/SKN RSK/SAR 3/07.08.2018/4P/4C