



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.10820 of 2018

S.M.Legarajan @ Balagangatharavarman .. Petitioner

vs.

1.State rep.by
The Inspector of Police,
K.K.Nagar Police Station,
Madurai,
Crime No.157 of 2018.

2.Fazaludheen Kamarudheen .. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in FIR in Crime No.157 of 2018 on the file of the 1st respondent police and quash the same.

For Petitioner	:	Mr.N.Anandakumar
For R1	:	Mr.K.Suyambulingabharathi Government Advocate (Crl.Side)
For R2	:	Mr.D.Senthil

O R D E R

This petition has been filed seeking to quash the First Information Report registered in Crime No.157 of 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.157 of 2018 for the offence under Sections 406 and 420 IPC against the petitioner/A1 and in order to quash the same, the petitioner is 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.Christy Raj, the Special Sub Inspector of Police, K.K.Nagar Police Station, Madurai is present. The defacto complainant and the petitioner is 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.Christy Raj, the Special Sub Inspector of Police, K.K.Nagar Police Station, Madurai. Learned counsel appearing for the parties also endorsed the identify of their respective parties.



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

"3.The petitioner as well as the 2nd respondent jointly submit that the defacto complainant has no objection to withdraw the sum of Rs.8,00,000/- from the petitioner's account by the petitioner herein and the petitioner herein has consented to retransfer the sum of Rs.5,50,000/- to the 2nd respondent's bank account after deducting a sum of Rs.2,50,000/- immediately for the mental agony and loss sustained on the part of the 2nd respondent.

4.The petitioner as well as the 2nd respondent jointly submits that such compromise has been taken place purely voluntary by the parties concerned. Hence, in order to avoid further ordeal of trial before the trial Court, they are preferred to be present before this Hon'ble Court whenever it is required. This Hon'ble Court by taking into consideration of the above said aspects with regard to the compromise and in the interest of the parties, can leniently look into the present issue, as such the prayer sought for by the petitioner can be allowed.

It is therefore prayed that the petitioner as well as the 2nd respondent jointly pray that this Hon'ble Court may be pleased to take into consideration of the present FIR in Crime No.157 of 2018 on the file of the 1st respondent police and permit the petitioner to compound the case and quash the same.

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 also taking note of the fact that the second respondent/defacto complainant has no objection to quash the FIR in Crime No.157 of 2018 and to that effect a joint memo of compromise has also been 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.157 of 2018 pending on the file of the first respondent in respect of the petitioners/A1 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. In this case, the learned counsel appearing for the petitioner submitted that the petitioner is willing to contribute some amount to the District Legal Services Authority, Trichirapalli under the Head "Environmental Fund" to preserve the environment. Hence, the petitioner is directed to remit a sum of Rs.5,000/- as costs within a period of two weeks from the date of receipt of a copy of this order, by way of Demand Draft drawn in favour of the District Legal Services Authority, Trichirapalli, 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, Trichirapalli 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.,

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

Enclosure: Xerox Copy of Joint Compromise Memo dated 21.06.23018

To

- 1.The Inspector of Police,
K.K.Nagar Police Station,
Madurai,
- 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,
Trichirapalli.

+1cc to M/S.N.Anandakumar, Advocate SR.No. 73209

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mj

JM/RP/SAR 2/23.07.2018/4P/6C