



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P. (MD) No.11161 of 2018

1.Sankar
2.Subramani
3.Thiruvali
4.Neela Karthi

.. Petitioners

vs.

1. The Inspector of Police,
Suchindram Police Station,
Suchindram,
Kanyakumari District.
Crime No.667 of 2015.

2. Nandakumar

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in Crime No.667 of 2015 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.R.Pon Karthikeyan
For R1 : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)

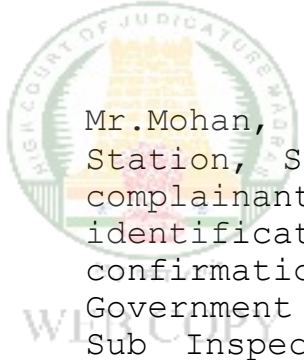
ORDER

This petition has been filed seeking to quash the case in Crime No.667 of 2015 pending on the file of the first respondent police.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.667 of 2015 for the offence under Sections 341, 147, 148, 294 (b), 323, 324 and 506 (ii) IPC against the petitioners/accused Nos.1, 2, 4 and 5 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.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Today, when the matter was taken up for hearing,



Mr.Mohan, the Special Sub Inspector of Police, Suchindram Police Station, Suchindram, 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.Mohan, the Special Sub Inspector of Police, Suchindram Police Station, Suchindram, 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 03.07.2018, wherein, it is stated as follows:

"2.It is submitted that the petitioners and the 2nd respondent are belong to same village. Therefore, after the registration of the case, the village elders intervened and advised the parties to settle the issue. Accordingly, both parties accepted the advice of the elders and decided to settle the issue amicably. The 2nd respondent has also agreed to drop the further criminal prosecution against these petitioners.

3.It is submitted that all the offences are mentioned in the FIR are simple and compoundable in nature and not serious offences. In view of the compromise, the 2nd respondent has agreed to drop criminal prosecution against the petitioners and he has no objection to quash FIR in Crime No.667 of 2015."

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 considering the fact that the second respondent/defacto complainant has agreed to drop further proceedings in the above case and to that effect a joint memo of compromise has also been filed on 05.07.2018, 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.667 of 2015 pending on the file of the first respondent in respect of the petitioners/accused Nos.1, 2, 4 and 5 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 05.07.2018 shall form part of this order.

8. In this case, the learned counsel appearing for the petitioners submitted that the petitioners are willing to contribute some amount to the District Legal Services Authority, Ramanathapuram under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of Rs.2,500/- (Total sum of Rs.10,000/-) 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, Ramanathapuram, 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, Ramanathapuram 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.,

WEB COPY

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-4)

Encl.: Xerox copy of Compromise Memo

To

1. The Inspector of Police,
Suchindram Police Station,
Suchindram,
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,
Ramanathapuram.

+ 1 CC TO Mr.R.PON KARTHIKEYAN, ADVOCATE IN SR No. 72557

MJ

TE/RP/SAR-4 : 24/07/2018 : 4P/6C

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11.07.2018