



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.11144 of 2018

1.Gokulakrishnan
2.Vijayaraman
3.Rajeswari
4.Thangavel

.. Petitioners/Accused 1 to 4

vs.

1.State rep.by
The Inspector of Police,
Peraiyur Police Station,
Madurai District.
Crime No.271 of 2016.
2.Shobana

.. 1st Respondent/Complainant
..2nd Respondent/Defacto Complainant

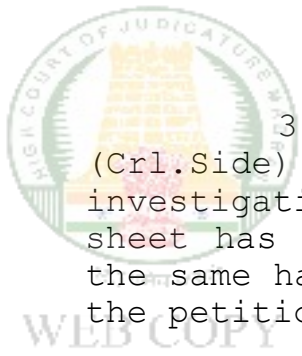
Petition is filed under Section 482 of Code of Criminal Procedure to call for the records and quash the FIR in Crime No. 271/2016 dated 15.12.2016 on the file of the Inspector of Police, Peraiyur Police Station, Madurai District pursuant to the compromise arrived at by the parties.

For Petitioners	:	Mr.A.Ananda Raj
For R1	:	Mr.Prabhu Ramachandran Government Advocate (Crl.Side)
For R2	:	Mr.P.Inbam

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.271 of 2016 dated 15.12.2016 pending on the file of the Inspector of Police, Peraiyur Police Station, Madurai District pursuant to the compromise arrived at by the parties.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.271 of 2016 on 15.12.2016 for the offence under Sections 294 (b), 323, 324, 506 (ii) and 109 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 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. At this juncture, the learned Government Advocate (Crl.Side) appearing for the first respondent submitted that investigation in Cr.No.271 of 2016 has been completed and charge sheet has been filed before the concerned Court on 06.03.2017, but the same has not been taken on file. Therefore, the relief sought by the petitioner cannot be granted.

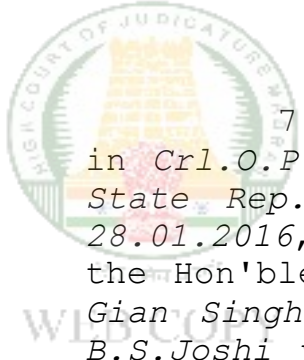
4. The learned counsel appearing for the petitioners would submit that the entire dispute between the petitioners and second respondent is settled amicably out of Court and to that effect a memo of compromise has also been filed on 02.07.2018. Therefore, it would suffice if the FIR in Crime No.271 of 2016 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 seek their remedy before the concerned forum. Recording the said submission, this Court is inclined to quash the proceedings in FIR No.271 of 2016.

5. Today, when the matter was taken up for hearing, Mr.Mohammed Noordeen, the Sub Inspector of Police, Peraiyur Police Station, 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 Mr.Mohammed Noordeen, the Sub Inspector of Police, Peraiyur Police Station, Madurai 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 filed on 02.07.2018, wherein, it is stated as follows:

"4. It is submitted that at present, the defacto complainant does not intend to pursue the proceedings in view of the compromise arrived with the petitioners. It is submitted that the second respondent does not intend to proceed further with the dispute and is very much interested in giving quietus to the dispute. It is submitted that the 2nd respondent/defacto complainant is not interested in pursuing the case and as such the their further exercise of the trial could be a futile exercise. It is submitted that at present the dispute between the parties have been resolved and the compromise arrived at an either side in the present quash petition by the parties is genuine and voluntary.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to accept the present joint compromise memo and quash the FIR in Crime No.271 of 2016 on the file of the Peraiyur Police Station, Madurai District pursuant to the compromise arrived by the parties."



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*, the nature of allegations made in the complaint and also taking note of the fact that the first petitioner is the wife of the defacto complainant/second respondent and now the defacto complainant is not willing to proceed with the above case and to that effect a joint memo of compromise has been filed by both parties on 02.07.2018,



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.271 of 2016 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 02.07.2018 shall form part of this order.

10. In this case, the learned counsel appearing for the petitioners submitted that the petitioners are willing to contribute some amount to the High Court Legal Services Committee, Madurai Branch under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of Rs.1,500/- (Total sum of Rs.6,000/-) 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 High Court Legal Services Committee, Madurai Branch 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 High Court Legal Services Committee, Madurai Branch 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 (AS)

/True copy/

Sub Assistant Registrar

Encl:Xerox Copy of Joint Compromise Memo.

To

- 1.The Inspector of Police,
Peraiyur Police Station,
Madurai 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 Secretary,
High Court Legal Services Committee,
Madurai Branch.
- +1cc to Mr.A.ANANDARAJ, Advocate, SR.No. 72496

Cr1.O.P. (MD) No.11144 of 2018
11.07.2018