



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.11275 of 2018

A.Pandidurai

.. Petitioner

vs.

1. State rep.by

The Inspector of Police,
Mandaiyur Police Station,
Pudukottai District.
Crime No.14 of 2018.

2.Balakrishnan

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the case in Crime No.14 of 2018 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.S.Ramakrishnan

For R1 : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)

For R2 : Mr.S.Paul Murugesh

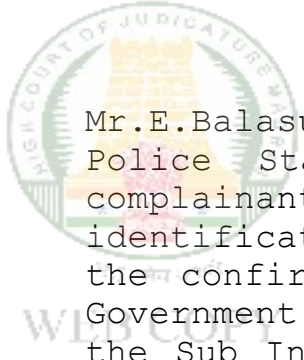
O R D E R

This petition has been filed seeking to quash the First Information Report registered in Crime No.14 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.14 of 2018 for the offence under Sections 147, 148, 341, 294 (b), 323, 324, 506(ii) and 307 IPC, 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992 and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 against the petitioner/accused No.10 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.

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

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



Mr.E.Balasubramanian, the Sub Inspector of Police, Mandaiyur Police Station, Pudukottai District is present. The defacto complainant and the petitioner 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.E.Balasubramanian, the Sub Inspector of Police, Mandaiyur Police Station, Pudukottai District. 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 04.06.2018 wherein, it is stated as follows:

"2.It is further submitted that as against the activities did by the petitioners herein, the second respondent lodged a complaint before the 1st respondent police and its on pending investigation. But now both parties agreed to consent for amicable settlement. Therefore, the defacto complainant/2nd respondent is agreed and extending her full consent for quashment of proceeding in connection with pending FIR in crime No.14 of 2018 on the file of the 1st respondent police. Accordingly, both parties have compromised themselves. It is pertinent to mention that both parties are not interested to proceed with further the case against with each other. Further a settlement was also arrived between the parties on the very subject matter. Hence, it is just and necessary to file this compromise memo before this Hon'ble Court and record the same and dispose of the above criminal original petition."

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:

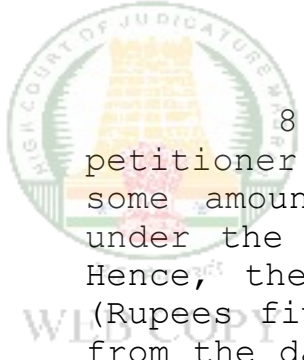
"11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public 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. Even though the case is registered under Section 307 IPC, which is a non compoundable offence and the parties cannot be allowed to compound the offence by way of compromise / out of Court settlement, considering the nature of allegations, injury, motive for the occurrence and pursuant to the amicable settlement between the parties and taking note of the judgements referred to supra and also in view of the fact that the second respondent/defacto complainant has agreed to quash the above case in Crime No.14 of 2018 pending on the file of the first respondent, 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.14 of 2018 pending on the file of the first respondent in respect of the petitioner/accused No.10 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 04.06.2018 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, Nilgiris under the Head "Environmental Fund" to preserve the environment. Hence, the petitioner is directed to remit a sum of Rs.5,000/- (Rupees five thousand only) 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, Nilgiris at Uthagamandalam 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, Nilgiris 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)

/True Copy/

Sub Assistant Registrar(CS-II)

Encl: Xerox copy of joint Compromise Memo dated 29.06.2018
To

1. The Inspector of Police,
Mandaiyur Police Station,
Pudukottai 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,
Nilgiris.

+ 1 cc TO Mr.B.Jameel Arasu , Advocate in SR No. 71492

mj

AE/PN/SAR2/26.07.2018/4P/6C