



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

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WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.11283 of 2018

1.Venkatesh

2.Bass @ Baskaran

: Petitioners/Accused No.1&2

vs.

1. State rep.by

The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.
Crime No.168 of 2018.: 1st Respondent/Complainant

2. Yasotha

: 2nd Respondent/Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure to call for the records of the case in Crime No.168 of 2018 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.R.Murugan

For R1 : Mr.Prabhu Ramachandran

Government Advocate (Crl.Side)

For R2 : Mr.M.Chinnathambi

ORDER

This petition has been filed seeking to quash the case in Crime No.168 of 2018 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.168 of 2018 for the offence under Sections 341, 294 (b), 323, 324 and 506 (ii) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 against the petitioners/accused Nos.1 and 2 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.Today, when the matter was taken up for hearing, Mr.Kandasamy, the Sub Inspector of Police, Kenikarai Police Station, Ramanathapuram 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.Kandasamy, the Sub Inspector of Police, Kenikarai Police Station, Ramanathapuram 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 04.07.2018, wherein, it is stated as follows:

"2.It is submitted that the defacto complainant and the petitioners settled their disputes amicably at the intervention of village elders, relatives and friends. Now they are living amicably and peacefully.

In the above circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to record the compromise memo and quash the FIR in Crime No.168/2018 on the file of the first respondent police for the alleged offences under Sections 341, 294 (b), 323, 324 and 506 (ii) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

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 is agreed to quash the above case and to that effect a joint memo of compromise has also been filed on 04.07.2018, 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.168 of 2018 pending on the file of the first respondent in respect of the petitioners/accused Nos.1 and 2 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 04.07.2018 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.5,000/-) 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.,

Sd/-

Assistant Registrar (CO)



Encl.: Xerox copy of Compromise Memo dated 04.07.2018

To 

1. The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:-

1. The Member Secretary,
Tamil Nadu State Legal Services Authority,
Chennai.
2. The District Legal Services Authority,
Ramanathapuram.

+ 1 CC TO Mr.R.MURUGAN, ADVOCATE IN SR No. 72489

MJ

TE/PN/SAR-1 : 26/07/2018 : 4P/6C

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11.07.2018