



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P. (MD) No.11509 of 2018

Yesuraja

.. Petitioner

vs.

1.State rep.by

The Inspector of Police,
Thukalay Police Station,
Kanyakumari District.
Crime No.181 of 2014.

2.Homerlal

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records relating to the proceedings in Crime No.181/2014 on the file of the 1st respondent and quash the same.

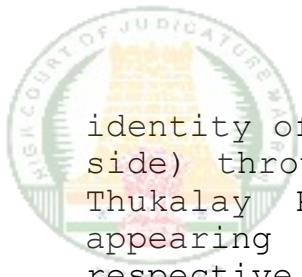
For Petitioner	:	Mr.K.P.Narayanakumar
For R1	:	Mr.Prabhu Ramachandran
		Government Advocate (Crl.Side)
For R2	:	Mr.N.Rajapanth

O R D E R

This petition has been filed seeking to quash the FIR registered in Crime No.181 of 2014 pending 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.181 of 2014 for the offence under Sections 447, 294(b), 427, 324 and 506 (ii) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 against the petitioner/sole accused 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.N.Manoharan, the Special Sub Inspector of Police, Thukalay Police Station, Kanyakumari 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.N.Manoharan, the Special Sub Inspector of Police, Thukalay Police Station, Kanyakumari District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

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4.The learned counsel appearing for the petitioner filed this quash petition along with a joint memo of compromise on 03.07.2018, wherein, it is stated as follows:

"3.It is submitted that due to money dispute, originally on the basis of petitioner's complaint, Crime No.180/2014 was registered against the 2nd respondent/defacto complainant. Subsequently, present counter case in Crime No.181/2014 was registered against the petitioner, on the basis of the 2nd respondent/defacto complainant's complaint. In these circumstances, both parties amicably settled the issue and consented to close both the cases i.e. Crime No.180 of 2014 and 181/2014.

4.It is submitted that the offence involved in the crime is private in nature and no public interest is involved. Now the petitioner and the defacto complainant entered into the compromise in front of the reputed personalities of locality and elders of family. In view of the above said compromise, the 2nd respondent/defacto complainant is ready to not press or withdraw the above said criminal case and he has no objection if this Hon'ble Court may be pleased to quash the First Information Report."."

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 in view of the fact that the second respondent/defacto complainant has no objection to quash the case in Crime No.181 of 2014 and to that effect a joint memo of compromise has been filed on 03.07.2018, 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.181 of 2014 pending on the file of the first respondent in respect of the petitioner/sole accused 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 03.07.2018 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, Perambalur under the Head "Environmental Fund" to preserve the environment. Hence, the petitioner is directed to remit a sum of Rs.3,000/- as costs within a period of two weeks from the date of receipt of a copy of this order, by way of an Demand Draft drawn in favour of the District Legal Services Authority, Perambalur who shall receive the said amount as "Environmental Fund" and make use of the said amount as 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, Prambalur 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(Writs)

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/True copy/

Sub Assistant Registrar(CS-III)

Encl:Xerox Copy of Joint Compromise Memo.

To

- 1.The Inspector of Police,
Thukalay Police Station,
Kanyakumari 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 Authorities,
Perambalur.

+1cc to Mr.K.P.NARAYANAKUMAR, Advocate, SR.No.74030

Cr1.O.P.(MD) No.11509 of 2018
19.07.2018

MJ

KK/SKN/SAR-3/06.08.2018/4P-6C/