



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.11967 of 2018

1.Ramkumar
2.Jayamani
3.J.Parimala
4.Selvi
5.N.Raja @ Alaguraja

.. Petitioners

vs.

1.State rep.by
The Inspector of Police,
All Women Police Station,
Tallakulam,
Madurai District.
Crime No.10 of 2018.

2.Divya

.. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records for the first information report in Crime No.10 of 2018 dated 16.03.2018 on the file of the 1st respondent police and quash the same as illegal and devoid of merits.

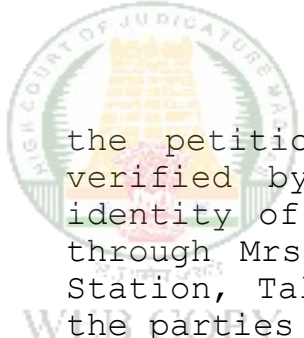
For Petitioners	:	Mr.T.Sugadev
For R1	:	Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R2	:	Mr.B.Viswanathan

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.10 of 2018 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.10 of 2018 for the offence under Sections 498(A) and 406 IPC against the petitioners/accused Nos.1 to 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, Mrs.Nagarani the Sub Inspector of Police, All Women Police Station, Tallakulam, 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 Additional Public Prosecutor through Mrs. Nagarani the Sub Inspector of Police, All Women Police Station, Tallakulam, Madurai 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 on 12.07.2018, wherein, it is stated as follows:

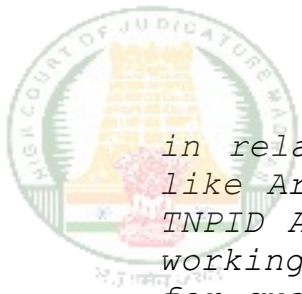
"3. It is submitted that the petitioners and the 2nd respondent are decided to give a quietus to the issue, the 2nd respondent had given the complaint under frustration. Now, at the intervention of family elder they decided not to precipitate the issue further and willing to withdraw the criminal case, since the case is pending before the 1st respondent, they moved the present quash petition along with the joint compromise memo.

4. Hence, the petitioners and the 2nd respondent are filing the joint compromise memo in support of their application seeking permission to quash the offences before this Hon'ble Court. This joint memo may be taken as part and parcel of their application to quash the offences after the permission of this Hon'ble Court.

For the reasons stated above it is humbly prayed that this Hon'ble Court may be pleased to accept the joint compromise memo filed by the petitioners and the 2nd respondent and quash the case in Crime No.10 of 2018 pending on the file of the 1st respondent."

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 first petitioner and second respondent/defacto complainant are husband and wife and other petitioners are their relatives and the dispute between them has been settled amicably and the second respondent/defacto complainant has also no objection to quash the case in Crime No.10 of 2018 and to that effect a memo of compromise has been filed on 12.07.2018, 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.10 of 2018 pending on the file of the first respondent in respect of the petitioners/accused Nos.1 to 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 12.07.2018 shall form part of this order.

8. The learned counsel appearing for the petitioners submitted that the petitioners are willing to pay some amount under the head of "Environment Fund". Hence, each petitioner is directed to remit a sum of Rs.1,000/- (Total sum of Rs.5,000/-) in the account, opened in the name of Member Secretary, Tamil Nadu Legal Services Authority, Chennai within a period of two weeks from the date of receipt of a copy of this order. The said amount shall be collected by the Registry, Madurai Bench of Madras High Court, Madurai, through the Accounts Section and then credited into the Savings Bank Account No.6656485009, Indian Bank, Madras High Court Branch, High Court Buildings, Chennai - 104, [Branch Code - 1632, IFSC Code : IDBI

000M157]], maintained by the Member Secretary, Tamil Nadu Legal Services Authority, Chennai. It is needless to say that the said amount shall be used 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].

TRUE COPY

SD
ASSISTANT REGISTRAR (CRL SIDE)

SUB ASSISTANT REGISTRAR (CS-I)

(JOINT COMPROMISE MEMO ENCLOSED HEREWITH - XEROX COPY)

To

- 1.The Inspector of Police,
All Women Police Station,
Tallakulam,
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 Section Officer, Accounts Section,
Madurai Bench of Madras High Court,
Madurai.

1cc to MR. M. JEGADEESH PANDIAN, ADVOCATE SR:76344

DS KAK SAR 1
14.09.2018
4P 6C

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31.07.2018