



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2018

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P. (MD) No.11976 of 2018

1.Alvin Jeffri raj
2.A.Rosemary
3.A.Arockia Kala

.. Petitioners/Accused No.1 to 3

vs.

1.State rep.by
The Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
Crime No.58 of 2010. .. 1st Respondent/Complainant

2.T.Radhakrishnan .. 2nd Respondents/Defacto Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records relating to the Charge sheet in C.C.No.207/2011 on the file of the District Munsif cum Judicial Magistrate, Eraniel and quash the same as the matter is amicably settled between parties.

For Petitioners	:	Mr.V.B.Sundhareshwar
For R1	:	Mr.Prabhu Ramachandran
		Government Advocate (Crl.Side)
For R2 & R3	:	Mr.T.Anbukumaran

O R D E R

This petition has been filed seeking to quash the charge sheet filed in C.C.No.207 of 2011 pending on the file of the District Munsiff cum Judicial Magistrate, Eraniel.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.58 of 2010 for the offence punishable under Sections 420, 294(b) and 506 (i) IPC against the petitioners herein. After completing investigation, the first respondent has filed charge sheet before the District Munsiff cum Judicial Magistrate, Eraniel and the same has been taken on file in C.C.No.207 of 2011 and for quashing the same, the petitioners and the defacto complainant are before this Court on the ground that they have arrived at a compromise.



3.Today, when the matter was taken up for hearing, Mr.Devakumaradas, the Special Sub Inspector of Police, Vellore Police Station, Kanyakumari 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.Devakumaradas, the Special Sub Inspector of Police, Vellore Police Station, Kanyakumari District. Learned counsel appearing for the parties also endorsed the identity of their respective parties.

4.The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that trial in C.C.No.207 of 2011 is not yet commenced.

5.The learned counsel appearing for the petitioners filed this quash petition along with a joint memo of compromise on 11.07.2018, wherein, it is stated as follows:

"3.It is respectfully submitted that subsequent to the filing of FIR as against the petitioners/accused Nos.s 1 to 3, the defacto complainant as well as the petitioner have amicably resolved their differences and settled the entire dispute at the instance of the elders of both sides. The defacto complainant is not interested in prosecuting the petitioner further. Hence, the defacto complainant has no objection in allowing the above quash petition since the matter has been amicably settled between both parties."

6.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

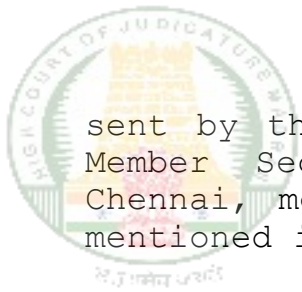


Special Enactment, like Arms Act, the Prevention of Corruption Act, TNPPDL Act, TNPID Act or the offences committed by Public Servants while working in that capacity, etc., cannot provide for any basis for quashing criminal proceedings involving such offences. As held by the Apex Court, insofar the offences 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."

7. Taking note of the judgments referred to supra, considering the nature of allegations and also considering the fact that the second respondent/defacto complainant has no objection to quash the proceedings in C.C.No.207 of 2011 and to that effect a joint memo of compromise has been filed on 11.07.2018, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings in C.C.No.207 of 2011 pending on the file of the District Munsiff cum Judicial Magistrate, Eraniel in respect of the petitioners/accused Nos.1 to 3 are hereby quashed.

8. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo filed on 11.07.2018 shall form part of this order.

9. 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, Thoothukudi under the Head "Environmental Fund" to preserve the environment. Hence, each petitioner is directed to remit a sum of Rs.3,000/- (Total sum of Rs.9,000/-) 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, Thoothukudi, 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 (MD) No.1043 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, Thoothukudi 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.,

WEB COPY

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

Enclosure: Xerox Copy of Joint Compromise Memo

To

- 1.The District Munsif cum Judicial Magistrate, Eraniel
- 2.The Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Member Secretary, Tamil Nadu State
Legal Services Authority, Chennai.
- 5.The District Legal Services Authority,
Thoothukudi.

+4cc to M/S.V.B.Sundhareshwar, Advocate SR.No. 74766

CrI.O.P.(MD) No.11976 of 2018
24.07.2018

mj

JM/KAK/SAR 2/02.08.2018/4P/10C