



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.13149 of 2018

and

Crl.MP(MD)No.5909 of 2018

- 1.Chinnappa
- 2.Sonaimuthu
- 3.Kalaichelvi

.. Petitioners/Accused Nos.2 to 4

vs.

1. State rep.by
The Inspector of Police,
All Women Police Station,
Thallkulam
Madurai District.
C.C.No.346 of 2016.

.. 1st Respondent/Compalinant

2. Bhavani

.. 2nd Respondent/Defacto
Complainant

Petition is filed under Section 482 of Code of Criminal Procedure to call for records relating to the proceedings in C.C.No.346 of 2016 on the file of the Additional Mahila Court, Madurai and quash the same as against these petitioners.

For Petitioners	:	Mr.T.Antony Arulraj
For R1	:	Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R2	:	Mr.P.Ramesh

ORDER

This petition has been filed seeking to quash the proceedings pending in C.C.No.346 of 2016 on the file of the Additional Mahila Court, Madurai.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.23 of 2015 for the offence punishable under Sections 498(A), 406, 506(i) IPC against the petitioners herein. After completing investigation, the first respondent has filed charge sheet before the Additional Mahila Court, Madurai and the same has been taken on file in C.C.No.346 of 2016 and for quashing the same, the



present petition has been filed. Pending the present petition, the learned counsel appearing for the petitioners filed a joint compromise memo on 02.08.2018, based on which, he sought to quash the proceedings in C.C.No.346 of 2016.

3.Today, when the matter was taken up for hearing, M/s.A.Selvi, Sub Inspector of Police, All Women Police Station, Thallkulam, 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 M/s.A.Selvi, Sub Inspector of Police, All Women Police Station, Thallkulam, Madurai District. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted that trial in C.C.No.346 of 2016 is not yet commenced.

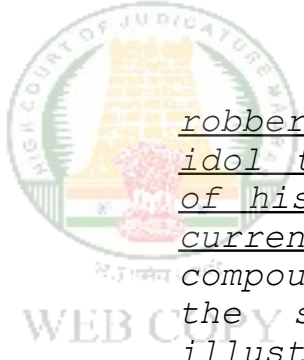
5.The learned counsel appearing for the petitioners filed a joint memo of compromise on 02.08.2018, wherein, it is stated as follows:

"... The dispute between the 2nd party and her husband is settled amicably and they jointly filed H.M.O.PNo.229 of 2017 and divorce was granted on 11.01.2018. The 2nd party accepted to withdraw the case in C.C.No.346 of 2016 in view of the settlement to that effect the joint compromise memo was prepared between the 2nd party and her husband on 02.02.2018.

Therefore, the 2nd party has no objection to quash the above criminal case registered against the 1st parties. To that effect the present memo is filed by both the 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,**



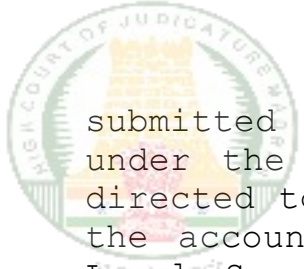
robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the 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 dispute between the petitioners and defacto complainant has been settled amicably and the second respondent/defacto complainant has no objection to quash the proceedings in C.C.No.346 of 2016 and to that effect a joint memo of compromise has also been filed on 02.08.2018, 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.346 of 2016 pending on the file of the Additional Mahila Court, Madurai in respect of the petitioners/accused Nos.2 to 4 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 02.08.2018 shall form part of this order.

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

9. 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.2,500/- (Total sum of Rs.7,500/-) 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]**. Consequently, CrI.M.P(MD)No.5909 of 2018 is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Judge, Additional Mahila Court, Madurai.
2. The Inspector of Police,
All Women Police Station,
Thallkulam
Madurai 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, Chennai.

Copy To:-

The Section Officer, Accounts Section,
Madurai Bench of Madras High Court, Madurai.

MJ

TE/JM/RSK/SAR-3 : 14/09/2018 : 4P/7C

CrI.O.P. (MD) No.13149 of 2018
02.08.2018
(2/2)