



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Cr1.O.P.(MD) No.13453 of 2018
and
Cr1.M.P(MD)No.6055 of 2018

1.P.Gurusamy
2.R.Raveenthiranaath Nehru .. Petitioners

vs.

1. State rep.by
The Inspector of Police,
Pudur Police Station,
Vilathikulam Taluk,
Thoothukudi District.
Crime No.42 of 2018.
2. G.S.Ganesan .. Respondents

Petition is filed under Section 482 of Code of Criminal Procedure to call for the records relating to the FIR in Crime No.42 of 2018 on the file 1st respondent police and quash the same as illegal.

For Petitioners	:	Mr.R.Krishnan
For R1	:	Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R2	:	Mr.Ajmeer Khaja

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.42 of 2018 pending on the file first respondent police.

2.On the complaint lodged by the second respondent herein, the first respondent police has registered a case in Crime No.42 of 2018 for the offence under Sections 451, 294(b) and 506(ii) IPC against the petitioners/accused Nos.1 and 2 and in order to quash the same, the present petition has been filed, based on the joint compromise memo filed on 20.07.2018.

3.Today, when the matter was taken up for hearing, Mr.Sivaprakasam, the Sub Inspector of Police, Pudur Police Station, Vilathikulam Taluk, Thoothukudi 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 Mr. Sivaprakasam, the Sub Inspector of Police, Pudur Police Station, Vilathikulam Taluk, Thoothukudi District. Learned counsel appearing for the parties also endorsed the identity of their respective parties.

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4. The learned Additional Public Prosecutor appearing for the first respondent submitted that investigation in Crime No.42 of 2018 is pending.

5. The learned counsel appearing for the petitioners filed a joint memo of compromise on 20.07.2018 along with the present petition, wherein, it is stated as follows:

"2. It is respectfully stated that after registration of the said case, the petitioners as well as the 2nd respondent herein have entered into a compromise and mutually agreed to solve their problem amicably at the instance of well wishers. The 2nd respondent/defacto complainant herein has no objection in allowing the above Crl.O.P. Hence in view of the amicable settlement between the petitioners and 2nd respondent the case in Crime No.42 of 2018 on the file of the 1st respondent may be quashed. Hence, the petitioners and the 2nd respondent have jointly filed this memo of compromise."

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 FIR in Crime No.42 of 2018 and to that effect a joint memo of compromise has also been filed on 20.07.2018, 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.42 of 2018 pending on the file of the first respondent in respect of the petitioners/accused Nos.1 and 2 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 20.07.2018 shall form part of this order.

9. The learned counsel appearing for the petitioners submitted that the petitioners are willing to contribute some amount to the District Legal Services Authority, Dindigul 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.6,000/-) 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, Dindigul who shall receive the said amount as "Environmental Fund" and make use of the said amount for the purposes mentioned in the order passed 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, Dindigul 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., Consequently, Crl.M.P(MD)No.6055 of 2018 is closed.

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Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Inspector of Police,
Pudur Police Station,
Vilathikulam Taluk,
Thoothukudi 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 District Legal Services Authority,
Dindigul.
- + 1 CC TO Mr.R.KRISHNAN, ADVOCATE IN SR No. 76914

MJ
TE/JM/RSK/SAR-3 : 17/09/2018 : 4P/6C

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