



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2018

CORAM:

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THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.[MD] No.19436 of 2018

Maharajan

: Petitioner/Accused No.2

vs.

1. The State represented by
Inspector of Police,
Thalamuthu Nagar Police Station,
Thoothukudi,
Thoothukudi District.
(Crime No.37 of 2014)

: 1st Respondent/Complainant

2. Mayakrishnan

: 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in J.C.No.50 of 2014 on the file of the learned Juvenile Justice Board, Thoothukudi, Thoothukudi District.

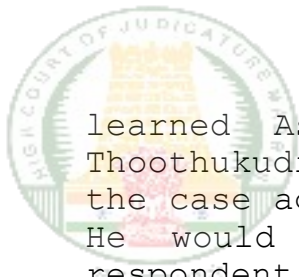
For Petitioner	: Mr.A.Thiruvadi Kumar
For R1	: Mr.A.Robinson Government Advocate (Crl.Side)
For R2	: Mr.Vinayak

ORDER

This petition has been filed to quash the proceedings in J.C.No.50 of 2014 on the file of the Juvenile Justice Board, Thoothukudi, Thoothukudi District.

2.The learned counsel for the petitioner would submit that the petitioner was committal at the time of occurrence and thereby the case was split up against the petitioner and it is pending in J.C.No.50 of 2014 on the file of the Juvenile Justice Board, Thoothukudi, Thoothukudi District.

<https://hcservices.ecourts.gov.in/hcservices/>
3. The learned counsel for the petitioner further would submit that the first accused is the father of the petitioner. Against him, the case was taken up for trial in S.C.No.69 of 2015 by the



learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Thoothukudi and since the second respondent herein turned hostile, the case against the father of the petitioner is ended in acquittal. He would further submit that the petitioner and the second respondent have compromised the dispute between them.

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4. It is also pertinent to note that the second respondent/defacto complainant as well as the petitioner are personally present before this Court. In order to identify themselves, the petitioner and the 2nd respondent/defacto complainant have submitted the photo copies of their Identity Cards and after verification of the originals, the same are recorded.

5. The second respondent /defacto complainant has also agreed to quash the proceedings in J.C.No.50 of 2014, insofar as the petitioner herein is concerned and to that effect a joint memo of compromise signed by both the parties as well as their respective counsels has also been filed.

6. The learned Government Advocate (crl. Side) would submit that the partial quashing of the proceedings, with regard to one accused is not permissible in law. He would also submit that the offence made out in the complaint are non-compoundable and are heinous offences and therefore, objected to having the proceedings quashed, insofar as the petitioner alone is concerned.

7. The learned counsel for the petitioner would submit that this Court in similar matters in **Crl.O.P(MD)No.28475 of 2017 dated 20.12.2017 and Crl.O.P(MD)No.2142 of 2018 dated 23.01.2018** had partially quashed the proceedings in respect of few accused alone.

8. This Court feels it apposite to refer to the Judgment of this Court in **Crl.O.P(MD)No.28475 of 2017 dated 20.12.2017**. The relevant paragraphs 8 and 9 of the said Judgement reads as follows:-

"8. At this juncture, it would be appropriate to refer to the Judgement of the Hon'ble Supreme Court in the case of **Lovely Salhotra and another Vs. State NCT of Delhi and another (Criminal Appeal No.670 of 2017)**, wherein, it has held that a FIR can be quashed in part, on the basis of the facts of each case and when one of the accused has offered to settle the issue amicably with the complainant, he should not be allowed to suffer by refusing to have the investigation quashed as against him.

9. The same proposition has been reiterated in a decision of the **Punjab and Haryana High Court, in the case of Balvinder Kumar @ Eidhu Vs. State of Punjab and another reported in CRM-M-16847-2014** by relying on three other Judgements of the same Court wherein it was held that partial quashing of the FIR is permissible. Likewise, the other Judgement of Punjab and Haryana High Court in **Crl.Misc.No.M-23739 of 2010** has held as follows.

"Broad guidelines have been laid down by the



Full Bench of this Court in the case of Kulwinder Singh and Ors. Vs. State of Punjab and another 2007 (3) RCR (Crl.) 1052 for quashing the prosecution when parties entered into compromise. The Full Bench has observed that this power of quashing is not confined to matrimonial disputes alone. The relevant portion of the Judgement reads as under:-

26. In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Shawney and others, (1980) 1 SCC 63, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:-

"The finest hour of justice arrived propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320 (9) if the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social emity and reduces friction, then it truly is finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a



litigation."

9. Further, a joint memo of compromise has also been filed by the parties and their respective counsels. Parties are also present before this Court and they have been identified by the respondent police. This Court also enquired the parties and is satisfied that the parties have come to an amicable settlement between themselves. When the parties have buried the hatchet between themselves and entered into a compromise to amicably settle the issues and purchase peace, no reasonable purpose will be served by keeping this petition pending.

10. In view of the aforesaid precedent and in order to meet the ends of justice, it would be appropriate to entertain the prayer sought for by the petitioner.

11. Recording the joint memo of compromise filed by both the petitioner and the de-facto complainant, the proceedings in J.C.No.50 of 2014 on the file of the learned Juvenile Justice Board, Thoothukudi, Thoothukudi District is partially quashed, insofar as the petitioner is concerned. The Criminal Original Petition is allowed. It is made clear that the first respondent police is at liberty to proceed with the investigation, insofar as the other accused are concerned. During the course of investigation, if the investigation officer is of the opinion that the petitioner herein is involved in any other offence, it is open to him to charge the petitioner for such an offence. The Joint Memo of Compromise shall form part of the order. The petitioner shall pay a sum of Rs.5000/- (Rupees Five Thousand only) as costs, to the credit of the High Court Legal Services Authority within a period of one week from the date of receipt of a copy of this order and file a photocopy of the receipt along with a memo reporting compliance in the Registry.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

Encl.: Xerox copy of Compromise Memo

To

1. The Assistant Sessions Judge cum
Chief Judicial Magistrate,
Thoothukudi.

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

2. The Inspector of Police,
Thalamuthu Nagar Police Station,



Thoothukudi,
Thoothukudi District.

3. The Juvenile Justice Board,
Thoothukudi,
Thoothukudi District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5. The Officer-in-charge,
High Court Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai.

6. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.A.THIRUVADI KUMAR, ADVOCATE IN SR No. 95113

MM/SKN

TE/SV/SAR-4 : 07/12/2018 : 5P/9C

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