



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.02.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**
Crl.O.P.[MD].No.3042 of 2020

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1.Kasilingam
2.Jeyapandi
3.Sundar
4.Balasubramanian @ Balan
5.Suman : Petitioners/Accused Nos.1 to 5
Vs.

State Through by

1.The Deputy Superintendent of Police,
Nanguneri Sub Division,
Tirunelveli District.

2.The Inspector of Police,
Thirukurangudi Police Station,
Tirunelveli District.

(Crime No.94 of 2014) :Respondent Nos.1 and 2/Complainants

3.Baby Sahila :3rd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the charge sheet in S.C.No.139 of 2016, on the file of the II Additional Sessions Court, Tirunelveli and quash the same.

For Petitioners : Mr.R.Maheswaran

For R-1 and R-2 : Mrs.S.Bharathi
Government Advocate (Crl. side)

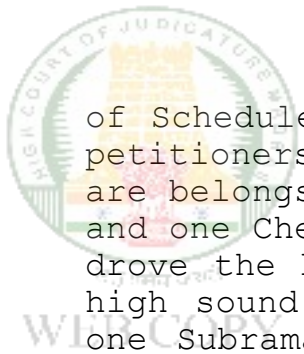
For R-3 : Mr.C.Ajaykose
for Mr.C.Susikumar

ORDER

The Criminal Original Petition has been filed to quash the proceedings in S.C.No.139 of 2016, on the file of the II Additional Sessions Court, Tirunelveli, for the offences punishable under Sections 147, 294(b), 323, 324 and 506(ii) of IPC r/w Sections 3(1) (r) (s) and 3(2)V(a) of SC/ST Amendment Ordinance Act, 2014.

2.The case of the prosecution is that the third respondent belongs to Hindu Valluvar Community, which comes under the category

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of Schedule Community and having native of Vanniyankudieruppu. The petitioners also residing in the same Vanniyankudieruppu, but they are belongs to Nadar Community. On 17.09.2014, the first petitioner and one Chermadurai were came in a motorcycle. The first petitioner drove the bike with rash and negligent manner and blow the horn in high sound in the street. At that time, the third respondent and one Subramanian, who were standing near the street, are requested the first petitioner to go slow and thereafter, within one hour the petitioners said to have came to the street and abused the third respondent using her caste and also said to have pelted stones on the persons, those who are standing in the street, in which, the third respondent sustained some simple injuries.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case with oblique motive. He would further submit that there are two community people residing in Vanniarkudieruppu, in which, the third respondent community people are majority in that area and they always used to quarrel with the petitioner's minority community people. Hence, there was a long pending dispute between the two community people. On the date of occurrence, the first petitioner crossed the West Street in his bike where the third respondent community people unnecessarily created problem by entering quarrel with him and also they have assaulted the first petitioner. Thereafter, the first petitioner informed the incident to his father/second petitioner herein, when the second petitioner questioned the same, he was also assaulted by the third respondent and his community people, for which, based on the complaint given by the first petitioner, a case was registered against the third respondent and others in Crime No.94 of 2014, for the offences punishable under Sections 147, 294(b), 323, 324 and 506 (ii) of IPC r/w Sections 3(1)(r)(s) and 3(2)V(a) of SC/ST Amendment Ordinance Act, 2014.

4.The learned counsel appearing for the petitioners as well as the learned counsel appearing for the third respondent submitted that now, the petitioner and the third respondent/*de-facto* complainant have settled the dispute between themselves amicably and the third respondent/*de-facto* complainant is not willing to proceed further with the criminal case.

5.Today, when the matter was taken up for hearing, both the petitioners and the third respondent/*de-facto* complainant are present before this Court and they are identified by their respective counsel and also identified by Mr.E.Sivakumar, SI of Police. The petitioners and the third respondent are residing in the same area and well known each others. Further, on intervention of both community's members and well-wishers, the issue has been compromised and amicably Settled Out of Court. Since they are well known to others, the issue has been compromised. Apart from that, there is no serious motive behind the occurrence. Since the matter



has been compromised, the second respondent has no objection to quash the charge sheet in S.C.No.139 of 2016, on the file of the II Additional Sessions Court, Tirunelveli. In this regard, the third respondent/de-facto complainant has also filed an affidavit before this Court.

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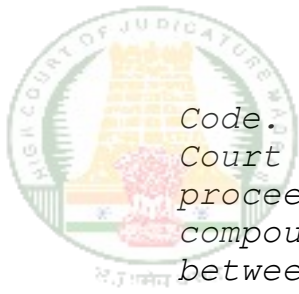
5.The case has been registered for the offences under Sections 147, 294(b), 323, 324 and 506(ii) of IPC r/w Sections 3(1)(r)(s) and 3(2)V(a) of SC/ST Amendment Ordinance Act, 2014. It is settled law that the High Court has inherent power under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings even for the offences which are not compoundable under Section 320 of the Code of Criminal Procedure, where the parties have settled their dispute between themselves. However, while quashing the criminal proceedings, based on the settlement arrived at between the parties, the High Court should act with caution and the power should be exercised sparingly only in order to secure the ends of justice and also to prevent abuse of process of any Court.

6.In **Gian Singh vs. State of Punjab [2012 (10) SCC 303]**, the Supreme Court has held as follows:

"61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society."

7.In **Narinder Singh v. State of Punjab [2014(6) SCC 466]**, after considering the **Gian Singh's** case referred to above, the Hon'ble Supreme Court has held as follows:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the



Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

8. In **Parbatbhai Aahir v. State of Gujarat [AIR 2017 SC 4843]**, the Supreme Court held thus"

"(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

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(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where reports.gov.in/hc/services/



(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

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(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

9. Recently, in **State of Madhya Pradesh v. Laxmi Narayan [AIR 2019 SC 1296]**, the Hon'ble Supreme Court, considering all the above judgments, has held as follows:

"i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest

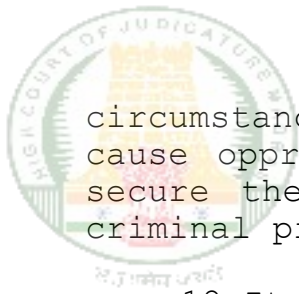


its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc."

10.Keeping the above principles in mind, let us now consider the instant case as to whether it is a fit case to quash the criminal proceedings based on the settlement arrived at between the parties.

11.In the case at hand, though the petitioners are charged with for the offences punishable under Sections 147, 294(b), 323, 324 and 506(ii) of IPC r/w Sections 3(1)(r)(s) and 3(2)V(a) of SC/ST Amendment Ordinance Act, 2014, now, the petitioners and the third respondent/defacto complainant have amicably settled their dispute between themselves. The third respondent/defacto complainant has also filed an affidavit before this Court stating that the de-facto complainant and the petitioners are residing in the same area. The case is also at the stage of trial. The third respondent/de-facto complainant is also not interested in prosecuting the criminal proceedings. In view of the compromise between the parties, the possibility of conviction is also remote and bleak. In the above



circumstances, continuity of the criminal proceedings would only cause oppression and prejudice to the parties, hence, in order to secure the ends of justice, this Court is inclined to quash the criminal proceedings.

12.It is represented by the learned counsel for the petitioners that the petitioners paid a sum of Rs.5,000/- (Rupees Five thousand only) as costs to the Credit of the Annai Sathya Memorial Government Children Home, Madurai and filed the original cash receipt along with this memo on 20.02.2020. The said submission is placed on record.

13.Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioners in S.C.No.139 of 2016, on the file of the II Additional Sessions Court, Tirunelveli, is quashed and the terms of joint compromise memo and affidavit filed by the third respondent shall form part and parcel of this order.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To

1.The II Additional Sessions Judge, Tirunelveli.

2.The Deputy Superintendent of Police,
Nanguneri Sub Division,
Tirunelveli District.

3.The Inspector of Police,
Thirukurangudi Police Station,
Tirunelveli District.

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

Copy to:

The Officer in charge,
Annaisathya Memorial Government Children Home,
Madurai.

+1 CC to M/s.C.SUSI KUMAR, Advocate (SR-7691[F] dated 21/02/2020)

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