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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.20441 of 2021

and

CrI.M.P.No.11111 of 2021

Nahas Abdul Kader

...Petitioner

Versus

1. The State,
Represented by Inspector of Police,
Palloor Police Station, Mahe District,
(Crime No.05 of 2015)

2.Niyas K.T.

...Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records culminating in S.T.C.No.77 of 2019 on the file of the learned Judicial Magistrate, Mahe and quash the same.

For Petitioner : Mr.B.Mohan

For Respondent : Mr.A.Damodaran
No.1 Additional Public Prosecutor

ORDER

This criminal original petition has been filed to call for the records culminating in S.T.C.No.77 of 2019 on the file of the learned Judicial Magistrate, Mahe and quash the same.

2.The gist of the case is that the defacto complainant, the secretary of Masjidul Minar Peringadi, on 03.01.2015, when he was in the shop, Mubarak S/o.Abdurahman called him over phone to come outside and when he came out of the shop, the said Mobarak along with his elder brother Rayees, Nahas S/o.Abdul Khader, Fahad Muhammed, S/o. Ahmed, Fahima, Eqrash Haris, S/o.Haris and Afnas S/o.Ahmed abused him by shouting as son of bitch, why don't you give me the mahallu certificate and took a stone attempted to hit him and threatened him. The other accused also joined them in shouting against the defacto complainant. The



people nearby had intervened and thereafter the accused flew away. On a complaint, case in Crime No.5 of 2015 for the offences under Sections 143, 294(b), 506(i) IPC r/w 149 IPC was registered against 6 others, in which, the petitioner is the third accused. After completion of the investigation, the charge sheet was filed before Judicial Magistrate, Mahe on 12.01.2015 and the same was taken on file in S.T.C.No.77 of 2019.

3.The case is still at the stage of trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

4.The learned counsel for the petitioner/A3 submits that the proceedings against the petitioner/A3 is liable to be quashed, since a compromise has been entered between the 2nd respondent and the petitioner/A3. He further submits that the continuation of the criminal proceedings will not serve any purpose of the prosecution. Hence, he prayed for quashing the proceedings. Further, he submits that in the similar case, co-accused cases were allowed by this Court on 12.07.2021 in CrI.O.P.Nos.11466 & 11924 of 2021 based on the compromise entered between the parties.

5.The learned Public Prosecutor submits that in this case, on receipt of the complaint, FIR came to be registered and thereafter, investigation was conducted and final report filed and listed L.W.1 to L.W.9 and other documents. The trial Court, on perusal of the charge sheet finding prima facie case against the petitioner, took cognizance and issued summons. At this stage, the petitioner/A3 filed this quash petition. Hence, he opposed.

6.Both the parties though appeared through video conferencing, the learned counsel for the petitioner undertook to file a memo of compromise entered between the petitioner/A3 and the second respondent/defacto complainant within a week.

7.Under such circumstances, no useful purpose will be served in keeping the proceedings pending. The offences involved are not compoundable in nature. The offence committed by the petitioner is private in nature involving individuals and not the society at large.

8.In view of the guidelines rendered by the "Hon'ble Apex Court in the case of Gian Singh Versus State of Punjab reported in (2012) 10 SCC 303", though the offences are non compoundable, this Court is inclined to quash the proceedings against the petitioner/A3.

9.This Criminal Original Petition stands allowed and as a



sequel, the proceedings in S.T.C.No.77 of 2019 pending on the file of the Judicial Magistrate, Mahe is quashed against the petitioner/A3. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sms

To

1. The learned Judicial Magistrate, Mahe.
2. The Inspector of Police,
Palloor Police Station, Mahe District,
(Crime No.05 of 2015)
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.20441 of 2021
and
Crl.M.P.No.11111 of 2021

RP(CO)
RGA(08/03/2022)