

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.13634 of 2017
and Crl.M.P.No.8793 of 2017

1.L.Boobalan	.. Petitioner/Accused-1
2.R.Manikandan	.. Petitioner/Accused-2
3.Adhil Ahamed	.. Petitioner/Accused-3
4.R.Jagan	.. Petitioner/Accused-4
5.P.Manikandan	.. Petitioner/Accused-5

Vs

1.State rep. by Inspector of Police, B2, Espalanedu Police Station, Chennai.	.. Respondent/Complainant
2.R.Dhilipan	.. Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the First Information Report in Crime No.256 of 2015, dated 25.02.2015, on the file of the first respondent and quash the same.

For Petitioners	.. Mr.I.Arockia Selvaraj
For R1	.. Mr.E.Raj Thilak Additional Public Prosecutor
For R2	.. Mr.T.G.Ravichandran

ORDER

The Court had benefited of enquiring five petitioners L.Boobalan, R.Manikandan, Adhil Ahamed, R.Jagan, P.Manikandan and also the second respondent, R.Dhilipan. To identify them, necessary identity cards are produced and they are also represented by their learned Counsels. A joint Memorandum of Compromise, which has been signed by all the petitioners and the second respondent and also by the respective learned Counsels, has been filed. The Memorandum of Compromise is as follows:-

"JOINT MEMO FILED BY PETITIONERS AND
2ND RESPONDENT

The petitioners and the 2nd respondent humbly submit as follows:

1.The petitioners and the 2nd respondent were studied law in same college. The petitioners and 2nd respondent were in good terms in the college. Due to some difference of opinion among themselves and out of frustration, the 2nd respondent gave a complaint against the petitioners before the 1st respondent and a FIR in crime No.256/2015 was registered.

2.Now all petitioner and 2nd respondent sorted out all the differences among themselves. Now no differences and problem prevailing among us, therefore we are filing joint memo to bring the entire issue to an end.

It is prayed that this Hon'ble court may be pleased to quash the crime no.256/2015 on the file of the 1st respondent by recording this compromise memo and thus render justice.

1.Sd/-L.Boobalan	1.K.Dhilipan
2.Sd/-AdhilAhamed.A	
3.Sd/-R.Manikandan	2nd RESPONDENT
4.P.Manidandan	
5.R.Jagan	

PETITIONERS

Sd/-I.Arockia Selvaraj	Sd/-T.G.Ravichandran
PETITIONER'S COUNSEL	2nd RESPONDENT
	COUNSEL"

2. In 2017 (9) SCC 641, Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat, the Hon'ble Supreme Court had given the broad principles which could be taken on record if, there has been a compromise effected among the parties. The said principles have been enunciated as follows:-

"(i) Section 482 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 inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable;

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as

murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) 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 parties have settled the dispute;

(ix) 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

(x) There is yet an exception to the principle set out in propositions (viii)"

3. The same principles have been again reiterated by the Hon'ble Supreme Court in 2019 (2) MLJ Cr1 10 (SC), State of Madhya Pradesh Vs. Dhruv Gurjar and another. The principles enunciated that the Court should examine whether, in view of the compromise, the possibility of conviction is remote and continuation of criminal proceedings could cause oppression and prejudice.

4. The petitioners in the instant case are facing allegations in F.I.R in Crime No.256 of 2015, which was registered pursuant to a complaint given by the second respondent herein on 25.02.2015 and registered by the first respondent.

5. Let me not delve deeply into the nature of allegations, but, I would restrict myself to the fact that better sense has prevailed owing to some sense and sensibility, and the parties have thought it fit to resolve the issues among themselves. I

hope that such resolution would continue forever and there would be no necessity in the future for any altercation among the parties. Let them keep in mind that as responsible citizens, they owe a duty to the society more than to their own ego.

6. In view of the said development, the present Criminal Original Petition is allowed and the First Information Report in Crime No.256 of 2015, dated 25.02.2015, on the file of the first respondent/the Inspector of Police, B2, Espalanedu Police Station, Chennai is quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

grs/kbs

To

1.The Inspector of Police,
B2, Espalanedu Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

+lcc to M/s.I.Arockia Selvaraj, Advocate Sr No.50065

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and Crl.M.P.No.8793 of 2017

SJ (CO)
PR (18/10/2021)