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CrI.O.P.No.7093 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM:

**THE HONOURABLE MS JUSTICE R.N.MANJULA**

CrI.O.P.No.7093 of 2021

K.Ganesh Bala

...Petitioner

Vs.

1.State represented by  
The Inspector of Police,  
K-6, T.P.Chathiram Police Station,  
Chennai.

2. A.Chandramohan  
(Crime No.60 of 2020)

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.60 of 2020 on the file of respondent police i.e. K6, T.P.Chathiram Police Station, Chennai and quash the same.

For Petitioner : Mr.C.Saravana Kumar

For 1<sup>st</sup> Respondent : Mr.A.Damodaran  
Additional Public Prosecutor

For 2<sup>nd</sup> Respondent: Ms.K.Usha Rani



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### **ORDER**

This Criminal Original Petition is filed to call for the records pertaining to the FIR in Crime No. 60 of 2020 on the file of the Inspector of Police, K6, T.P.Chathiram Police Station, Chennai and quash the same as illegal.

2. Today, when the matter is taken up for hearing, the learned counsel for the petitioner would submit that the matter has been amicably settled between the parties. In view of the compromise, the defacto complainant does not want to pursue the matter further. The joint memo was also filed in this regard by way of affidavit. The defacto complainant and the petitioner were present before this Court and they were identified by the Police viz D.Ganpat, Special Sub Inspector of Police, K6, T.P.Chathiram Police Station, Chennai.

3. On perusal of the records, it is seen that the accused has been charged for the offence under Section 436 of I.P.C, which is non-compoundable in nature. But the parties have intended to amicably settle the issues between themselves and bury their hatchets. When the parties have



compromised the matter, it is unnecessary to continue investigation and if it is allowed to be continued, it does not going to give any fruitful results.

4. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court in ***the State of Madhya Pradesh Vrs. Dhruv Gurjar and another*** reported in ***(2019) 2 MLJ Crl 10***. In the said case, the Hon'ble Supreme Court has held that while allowing the non compoundable offence to be compromised, the Court has take into consideration of the impact of the crime. The relevant paragraph is extracted hereunder:

*“16.2 In the case of Gian Singh (supra), in paragraph 61, this Court has observed and held as under:*

*“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*



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*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. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption 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. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or*



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*continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”*

5. In the case in hand, the petitioner is said to have damaged the vehicle of the 2<sup>nd</sup> respondent/defacto complainant. So the law sustained by the defacto complainant is personal in nature and hence it is a personal crime which can be allowed to be compounded between the parties.

6. In view of the above observations, this Criminal Original Petition is allowed. The FIR in Crime No.60 of 2020 is ordered to be quashed. The terms of compromise filed by way of affidavit, shall form part of the order.

**23.09.2022**

vum  
Index:yes/No  
Speaking order / Non speaking order



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**R.N.MANJULA,J.**

vum

**To**

- 1.The Inspector of Police,  
K-6, T.P.Chathiram Police Station,  
Chennai.
2. The Public Prosecutor,  
Madras High Court,  
Chennai.

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