



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.5402 OF 2022

AND

CRL.M.P.NOS.2961 & 2964 OF 2022

Anthony Raj

... Petitioner/Accused

-Vs-

1. The State Rep. by,  
The Inspector of Police,  
K3-Aminjikai Police Station,  
Chennai.  
Crime No.7 of 2020.

... 1<sup>st</sup> Respondent/Complainant

2. A.Nirmala Mary

... Respondents/Defacto  
Complainant

PRAYER:-

Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records and quash the proceeding in S.C.No.337 of 2021 on the file of the Hon'ble Mahalir Neethimandram Sessions at Allikulam, Chennai.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondent : Mr.A.Gokulakrishnan  
Additional Public Prosecutor  
For R1

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the proceeding in S.C.No.337 of 2021 on the file of the learned Mahalir Neethimandram Sessions at Allikulam, Chennai.

2. The learned counsel for the petitioner would submit that the defacto complainant is the wife of the petitioner. They got



married on 22.08.1984, the case arises out of a matrimonial dispute. He would submit that the defacto complainant sustained burn injuries by accidental spillage of hot water and thereby a case has been registered for the offences under Section 307 of IPC. Now the matter has been compromised between the parties. Due to the intervention and elders and even the materials available does not disclose the case of attempt to commit murder.

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

4. A Joint Memo of Compromise has been filed before this Court, which have been signed by the petitioner and the 2<sup>nd</sup> respondent/defacto complainant. The parties were present before this Court and they were identified by their respective counsel. This Court also enquired both the parties and satisfied that the parties have come to an amicable settlement between themselves. An affidavit of the 2<sup>nd</sup> respondent/defacto complainant is extracted hereunder:-

'2. I submit that I am working as Village Heath Nurse at Govt.Primary Health Centre, Medhur, the Quash Petitioner is my husband and he is aged about 62 years and retired Clerk from The Federal Bank Ltd. further both of them got married on 22.08.1984 and having a daughter and son named Beula Mary and Pravin Raj respectively.

3. I submit that on 02.01.2020 at about 10.15 am. Myself and my husband having usual family quarrel at that time the hot water accidentally spillage in to me due to that I had sustained small burn injuries, immediately I was taken in to Billroth Hospitals, Shenoy Nagar, Chennai - 600 030, no serious injuries hence after treatment I was return to home on the same day itself.

4. I submit that a case was registered against my husband in Crime No.7 of 2020, U/s.307 of IPC. And subsequently a Charge sheet was filed before the Hon'ble Magalir Neethimandram, Sessions at Allikulam complex-Chennai and same was taken on file in S.C.No.337 of 2021. The Trial is not yet commenced.

5. I submit that on the day of occurrence the quarrel between me and my husband is arising out of matrimonial relationship further my husband having no intention or mens rea for causing hurt to me.



WEB COPY

After the above incident we had been resolved and compromised further decided to live happily and peaceful as husband and wife under one roof.

6. I submit that the continuation of criminal proceeding will spoil our peaceful life and the same is to be quashed for meet the ends of justice.''

5. The case has been registered for offences under Section 307 IPC. 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 summarized 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 :-

WEB COPY

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.





WEB COPY

(6) 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.

(7) 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 insofar as the exercise of the inherent power to quash is concerned.

(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 parties have settled the dispute.

(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

(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. Subsequently, a three judges bench of the Hon'ble Apex Court in State of Madhya Pradesh v. Laxmi Narayan reported in



(2019) 5 SCC 688 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



WEB COPY

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, the petitioners are charged for the offences punishable under Section 307 IPC. Now, the petitioners and the 2<sup>nd</sup> respondent/defacto complainant have amicably settled their disputes between themselves. The 2<sup>nd</sup> respondent/defacto complainant has also filed an affidavit stating that based on the advice of their close relatives and friends the parties resolved all the issues and decided to live happily and peaceful as husband and wife under one roof.

12. This Court enquired the 2<sup>nd</sup> respondent/defacto complainant she had informed that on 02.01.2020, due to the verbal fight between her and the petitioner who is her husband, without knowing the consequences, she had filed the complaint against the petitioner/husband. The case is also ripe for trial, the second respondent/defacto complainant is not interested in prosecuting the criminal proceedings.

13. In view of the compromise between the parties, the possibility of conviction is also remote and bleak. In the above circumstances, the continuity of the criminal proceedings would only cause oppression, frustration and prejudice to the parties,



hence, in order to secure the ends of justice, this Court is inclined to quash the proceedings as against the petitioner.

14. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in SC.No.337 of 2021 on the file of the Mahalir Neethimandram Sessions at Allikulam is quashed and Joint Memo of Compromise signed by both the parties and the Affidavit of the 2<sup>nd</sup> respondent dated 22.03.2022, shall form part of Court records.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jas/tsh

To

1. The Inspector of Police,  
K3-Aminjikarai Police Station,  
Chennai.
2. The Public Prosecutor,  
High Court, Madras.

+lcc to Mr.K.V.Muthu Visakan, Advocate, S.R.No.19376

CRL.O.P.NO.5402 OF 2022 AND  
CRL.M.P.NOS.2961 & 2964 OF 2022

SKM(CO)  
PBS/07/04/2022