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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.5804 OF 2022

1. Manikandan
2. Sivaprakasan
3. Alamelu
4. Vennila

... Petitioners/Accused
1 to 4

.Vs.

1. The State Rep. by
The Inspector of Police,
Thirukovilur.
Cr.No.12 of 2021.

2. Kalpana

... Respondents/Complainant
& Defacto Complainant

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C, praying to quash the proceedings in S.C.No.38 of 2022 pending on the file of the X Sessions Judge, (Magalir Neethi Mandram), Villupuram.

For Petitioners : Mr.A.G.Rajan

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

For R2 : Mr.P.Senthil Kumar

ORDER

The Criminal Original Petition has been filed to quash the proceedings in S.C.No.38 of 2022 pending on the file of the X Sessions Judge, (Magalir Neethi Mandram), Villupuram.

2. The prosecution case is that the second respondent is the victim girl. The first petitioner and the second respondent/victim girl were in love from 2015 onwards. On 06.01.2019 at



about 8.30 pm, while the second respondent/victim girl was alone, the first petitioner came in to the house of the second respondent/victim girl and induced her, on a false promise of marriage had sexual intercourse with her, due to which, the victim girl had become pregnant. At that time, the petitioners 2 to 4 who are the relatives of the 1st petitioner/A1 has abused the second respondent/defacto complainant in filthy language and intimidated her. On the impression that the 1st petitioner was getting ready to marry some other girl, the second respondent/defacto complainant had filed a complaint. The 1st respondent has registered a case in Crime No.12 of 2021 for the offences under Sections 294(b), 417, 376 and 506(i) of IPC. The first respondent after completion of investigation, filed final report against the petitioners and the case was taken up on file in S.C.No.38 of 2022 before the learned X Sessions Judge (Magalir Neethi Mandram), Villupuram and the same is pending for trial.

3. Learned counsel appearing for the petitioners would submit that the relationship between the 1st petitioner and 2nd respondent/de-facto complainant was consensual in nature. Admittedly, the 2nd respondent/de-facto complainant got pregnant twice and thereafter, due to some misunderstanding, their marriage could not take place, which resulted into lodging of a complaint against the petitioners, however, the parties have compromised the matter and the 2nd respondent/de-facto complainant does not want to proceed against the petitioners. He would further submit that dispute between the petitioners and the 2nd respondent/de-facto complainant is private in nature and thereby, he would pray that the proceedings against the petitioners may be quashed based on the compromise entered into between the parties.

4. Learned counsel appearing for the 2nd respondent/de-facto complainant would submit that the relationship between the parties are consensual in nature, due to which, the second respondent/de-facto complainant got pregnant twice and since the 1st petitioner refused to marry her, she had given a complaint as if the first petitioner had induced and cheated her on the false promise of marrying her. He would further submit that the 2nd respondent/de-facto complainant had entered into a compromise with the accused and she does not want to proceed further.

5. The parties have compromised the matter and also filed a Joint Memo of Compromise before this Court, which have been signed by the petitioners and the second respondent and also by their respective counsel. The petitioners and the second respondent were present before this Court and they were identified by their counsels. This Court also enquired both the parties and satisfied that the parties have come to an amicable



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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."

8. 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



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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."

9. 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.

(2) 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 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) 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.



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(4) 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.

(5) 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 formulate.

(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



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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."

10. Subsequently, 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



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 impart 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."

12. Keeping the above principles in mind, this court has to now see as to whether the instant case is a fit case to quash the criminal proceedings based on the settlement arrived at between the parties.

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respondent/de-facto complainant was also present before this Court and when enquired, she had submitted that she had entered into a compromise with the petitioners and she does not want to proceed any further. Further, in view of the compromise entered into 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 and prejudice to the parties as well and hence, in order to secure the ends of justice, this court is inclined to quash the criminal proceedings against the petitioners.

14. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in S.C.No.38 of 2022 on the file of the learned X Sessions Judge, (Magalir Neethi Mandram), Villupuram, is quashed and the terms of joint compromise memo shall form part and parcel of this order.

- * Xerox Copy of Joint Memo filed by the Defacto Complainant and the accused in this case is enclosed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vkr

To

1. The X Sessions Judge,
(Magalir Neethi Mandram),
Villupuram.
2. -Do Thro The Principal Sessions Judge,
Villupuram.
3. The Inspector of Police,
Thirukovilur.
4. The Public Prosecutor,
Madras High Court,
Madras.

+1cc to Mr.A.G.Rajan, Advocate, S.R.No.19925

CRL.O.P.NO.5804 OF 2022

AJS(CO)
PBS/11/04/2022