



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5596 of 2022

1. Alandurai
2. Stalin
3. Elayaraja
4. Sathish Kumar
5. Easwaran
6. Jayaraman
7. Ajith
8. Sabarinath
9. Maharasan
10. Elavarasan
11. Ravichandran
12. Arun Kumar
13. Venkatesh
14. Manoj Raj
15. Durai Murugan

... Petitioners/Accused

Vs.

1. State by,
The Inspector of Police,
Paravakkottai Police Station,
Mannarkudi, Tiruvarur District,
Crime No.22/2020

... 1st Respondent/Complainant

2. Mr.Jayaraman

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records quash the case pending on the file of the Judicial Magistrate No.2, Mannarkudi in PRC No.42 of 2021.

For Petitioners : Mr.A.G.Rajan

For Respondent 1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For R2 : Mr.B.Gurumurthy



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O R D E R

This Criminal Original Petition has been filed to call for the records pending on the file of the Judicial Magistrate No.2, Mannarkudi in PRC No.42 of 2021 and quash the same.

2. The case of the prosecution as per the defacto complainant one Jayaraman is that on 29.02.2022 at about 10.30 p.m., A1 to A15 had come in two cars and abused the defacto complainant in filthy language saying that the defacto complainant's son one Selvakumar, had taken his car and caused an accident thereby, a settlement was arrived at between them for giving compensation for the damages occurred whereas, he has not given the compensation as promised. Saying so, the A1 and A2 attempted to attack the defacto complainant with aruval but the defacto complainant escaped and was rescued by his neighbours. Thereafter, the defacto complainant has given a complaint. Based on the complaint, a case in Crime No.22 of 2020 for the offences under Sections 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959 was registered by the respondent police. After completion of the investigation, the final report was filed and the case was taken in PRC.No.42/2021 on the file of learned Judicial Magistrate-II, Mannargudi. The charges against A1 is under Sections 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959, the charges against A2 is under Sections 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959 and charges against A3 to A15 is under Sections 147, 148, 506(2) of IPC and 25(1A) of Arms Act, 1959.

3. Learned counsel for the petitioners would submit that the matter has arisen out of dispute relating to non-payment of compensation for the damages occurred in respect of the car which met with an accident. He would submit that the parties are known to each other and they have compromised the matter. The accident had occurred in the night hours and no weapons were used. In this case, the complaint has been given as if the accused had attempted to cut him with aruval and stab him with knife. He would further submit that the defacto complainant has filed an affidavit stating that no weapons were used in the incident and there is no injury to anybody.

4. Mr.B.Gurumoorthy, learned counsel for the defacto complainant would submit that the matter has arisen out of a dispute with regard to the non-payment of compensation relating to damage to a car which was borrowed by the defacto complainant's son which met with an accident. He would submit that the occurrence had occurred during night hours and the defacto complainant had wrongly assumed that the accused were having weapons, hence, he has given a complaint. He would further submit that the defacto complainant was not injured.



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5. Learned Additional Public Prosecutor would submit that based on the complaint given by the defacto complainant, a case in Crime No.22 of 2020 was registered by the respondent police. After the completion of the investigation, the respondent has filed the final report and the case is now pending in PRC.No.42 of 2021 on the file of learned Judicial Magistrate-II, Mannargudi. He would submit that the respondent had conducted proper investigation and filed final report and there are totally 11 witnesses. In this case, the respondent have also seized the properties. However no one was injured in this case.

6. Taking into consideration the facts and circumstances of the case, this Court is of the view that the occurrence had happened in the night hours and no one is injured. In this case, the dispute pertains to non payment of compensation amount towards damages caused to the car, which met with an accident. It is fairly conceded that the parties have compromised the matter. The case is pending committal. By passage of time, the parties have decided to bury their hatchet and compromised the dispute amicably among themselves.

7. A Joint Memo of Compromise has been filed before this Court, which have been signed by the second respondent/defacto complainant and petitioners and also by their respective counsels. The petitioners and the second respondent/defacto complainant were also present in person before this Court and they were identified by their respective counsels. This Court also enquired the parties of both sides and was satisfied that the parties have come to an amicable settlement between themselves. The Joint Compromise Memo signed by the petitioners and the defacto complainant is extracted hereunder :-

'It is submitted that the above case was registered by the 2nd respondent police based on the complaint lodged by the defacto complainant as against the petitioners. Now, the petitioners/Accused and the defacto complainant have amicably settled their case and they do not want to get on with the case. The averments contained in the quash petition and the affidavit filed by the defacto complainant in this case may also be taken as part and parcel of this joint compromise memo.

Therefore, it is prayed that this Hon'ble Court may be pleased to accept the joint compromise memo and pass orders to this effect and thus render justice."



8. The case has been registered for offences under Section 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959 and thereafter final report was filed for the charges against A1 is under Sections 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959, the charges against A2 is under Sections 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959 and charges against A3 to A15 is under Sections 147, 148, 506(2) of IPC and 25(1A) of Arms Act, 1959. 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.

9. 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."

10. 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 :-



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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.

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."

11. In Parbatbhai Aahir v. State of Gujarat [AIR 2017 SC 4843], the Supreme Court held thus"





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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."

12. 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



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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 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."

13. 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.

14. In the case at hand, the petitioners are charged for the offences punishable under Sections 147, 148, 294(b), 307, 506(2) of IPC and 25(1A) of Arms Act, 1959, no body was injured in this case, the defacto complainant has also now stated that the incident had occurred in the night hours and no weapons were used. However, placing reliance on the statement the



respondent/police has registered the case for the offence alleged supra and the dispute between the parties had arisen only out of non payment of compensation towards damage to a car, the dispute is also private in nature. Now, the petitioners and the 2nd respondent/defacto complainant have amicably settled their disputes between themselves. The joint compromise memo signed by the defacto complainant and petitioners has been filed. The defacto complainant has stated no objection for quashing the proceedings in FIR in PRC.No.42 of 2021 pending on the file of the Judicial Magistrate No.II, Mannargudi.

15. This Court enquired the 2nd respondent/defacto complainant and the petitioners, both the parties have stated that they have amicably settled the matter between themselves and entered into a joint compromise memo. The second respondent/defacto complainant has also stated no objection to the proceedings being quashed. The second respondent/defacto complainant is not interested in prosecuting the criminal proceedings.

16. 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.

17. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in PRC.No.42 of 2021 on the file of the Judicial Magistrate No.II, Mannarkudi is quashed and the Joint Compromise Memo signed by both the parties, shall form part of Court records.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

nti/nr/tsh

To

1. The Judicial Magistrate No.II,
Mannarkudi.



2. The Inspector of Police,
Paravakkottai Police Station,
Mannarkudi,
Tiruvarur District

3. The Public Prosecutor,
High Court of Madras.

Cr1.O.P.No.5596 of 2022

SV(CO)
SU(27/05/2022)