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Crl.O.P.No.6549 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM

THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.6549 of 2022

M.Nagendiran,
S/o.S.Muthu

... Petitioner

Vs

1.The State represented by,
The Inspector of Police,
C-1, Utthukottai Police Station,
Thiruvallur District.
(Crime No.16 of 2021)

2.Usha,
W/o.Nagendiran

3.Menaka,
D/o.Nagendiran

4.Sarasu,
W/o.Murugan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, pleased to call for the records and to quash the FIR in Crime No.16 of 2021 pending investigation on the file of the Inspector of Police, C1 Utthukottai Police Station, Thiruvallur District.



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For Petitioner : Mr.S.Suresh
For Respondents :
For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed, to call for the records and to quash the FIR in Crime No.16 of 2021 pending investigation on the file of the Inspector of Police, C-1 Utthukottai Police Station, Thiruvallur District.

2. The learned counsel for the petitioner would submit the case of the prosecution is that the petitioner's family and the defacto complainant are the residents of the same area. On 22.01.2021 at about 3.00 A.M, the petitioner has made a quarrel with his wife/second respondent and stabbed her with knife on her left forehead. When the petitioner's daughter/third respondent and the petitioner's maternal aunt/fourth respondent tried to prevent the attack, they were also injured by the petitioner. At that time, one late Sekar/defacto complainant, neighbour of the petitioner interfered and tried to stop the petitioner but the petitioner stabbed sekar/defacto complainant on his left ear and ran away.



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3. Based on the complaint given by the defacto complainant, a case in Crime No.16 of 2021 was registered by the first respondent for the offences punishable under Sections 294(b), 323, 324, 506(ii) of I.P.C., read with Section 24 of Mental Health Act, 1987. After completion of the investigation, the first respondent had filed the final report before the learned District and Munsif-cum-Judicial Magistrate at Utthukottai and the case was taken up in Crl.M.P.No.490 of 2021.

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

5. An affidavit of compromise has been filed by the second to fourth respondents before this Court, which have been signed by the respondents. The petitioner and the respondents are present before this Court and also identified by the first respondent. This Court also enquired both the parties and satisfied that the parties have come to an amicable settlement between themselves. An affidavit filed by the second respondent is extracted hereunder:-



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"3. I humbly submit that the case of the prosecution is that the defacto complainant is one late Sekar, who is residing at Annavaram Colony and Mukkarapakkam Village, Tiruvallur District. We are the neighbors of the defacto complainant. My husband is the petitioner/Accused in this case. He was mentally ill during at the time of occurrence. As per the complaint it is alleged that the petitioner often used to quarrel with our family members and did not go to job. On 22.01.2021 at about 3.00 A.M my husband quarreled with me and started to assault me. All of sudden it is alleged that he took a knife and stabbed me on the left fore hand. When our daughter Monika tried to prevent the attack she was also stabbed by my husband with a knife on the left hand index finger. It is further alleged that my husband also assaulted his maternal aunt Sarasu on the back with knife. On seeing this attack the defato complainant tried to prevent the attack. My husband said to stabbed him as well on his left ear and ran away from the scene of occurrence. Sustaining bleeding injuries all the injured persons were taken to government hospital Uthukkottai and First Aid was given to us. Then we were forwarded to Government Hospital Thiruvallur for futher treatment. When the defacto-complainant was in hospital for treatment a statement was received by the first respondent police and a case was



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registered in Crime No:16 of 2021 under Sections 294(b), 323, 324, 506(ii) read with Section 24 of Mental Health Act, 1987. Hence the prosecution case.

4. I submit that during the course of remand the learned district and Munsif cum Judicial Magistrate at Utthukottai forwarded the petitioner herein for psychiatric treatment to the mental health hospital Kilpauk on the same day. In the mean my mother filed a petition under Section 22(7)(iv) of Mental Health Act, 1987 praying to transfer the petitioner from Kilpauk Mental Health Hospital to Shri Ramachandiran Mental Hospital for further treatment for petitioner's personal care and protection in Crl.M.P.No.490 of 2021. After hearing both side arguments the learned Magistrate by an order dated on 16.02.2021 was pleased to pass the following order:

“Hence this Court directed to the director of Mental Health Institute, Kilpauk to discharge the patient namely M.Nagenran S/o. Muthu to further treatment regarding his mental illness to Shri Ramachandira Mental Health Center. The petitioner usha taking care and protection of the patient under taking given by this Court. So discharge and handover to the patient on his wife Usha”.

5. I humbly submit that after the above I continued my husband's treatment at Mental Health Hospital



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Kilpauk till date. Due to the continues treatment my husbandis now cured completely and mental fitness certificate was issued by the authority concerned. My husband is now completely recovered from his mental illness and now completely restored to his normal life. My husband is now working as a foreman in Tamil Nadu Generation and Distribution Corporation for the past 20 years without any un-blemished records. Due to the pending of this case suspension memo Memo No: AEE/oxm/TNR/f suspension / D.No.70/ du dated 25.02.2021 was already issued to him and now a situation has aroused that he may lose his job.

6. I humbly submit that at present I am living with my husband along with my children in our house and my husband is taking care of our entire family. My elder daughter is at the verge of her marriage and other two female children are studying in school. My husband is the sole bread winner and who takes care of our entire family. After realizing all these entire facts. I am not interested in perusing on my statement and complaint in this case. Hence in order to purchase peace the matter has been amicably settled between us and I have no objection in quashing this FIR.



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6. Affidavit filed by the third respondent is extracted hereunder:-

“3. I humbly submit that the case of the prosecution is that the defacto complainant is one late Sekar, who is residing at Annavaram Colony and Mukkarapakkam Village, Tiruvallur District. We are the neighbors of the defacto complainant. My father is the petitioner/Accused in this case. He was mentally ill during at the time of occurrence. As per the complaint it is alleged that the petitioner often used to quarrel with our family members and did not go to job. On 22.01.2021 at about 3.00 A.M my father quarreled with my mother and started to assault me. All of sudden it is alleged that he took a knife and stabbed my mother on the left forehead. I tried to prevent the attack I was also stabbed by my father with a knife on the left hand index finger. It is further alleged that my husband also assaulted his maternal aunt Sarasu on the back with knife. On seeing this attack the defato complainant tried to prevent the attack. My husband said to stabbed him as well on his left ear and ran away from the scene of occurrence. Sustaining bleeding injuries all the injured persons were taken to government hospital Uthukkottai and First Aid was given to us. Then we were forwarded to Government Hospital Thiruvallur for futher



treatment. When the defacto-complainant was in hospital for treatment a statement was received by the first respondent police and a case was registered in Crime No:16 of 2021 under Sections 294(b), 323, 324, 506(ii) read with Section 24 of Mental Health Act, 1987. Hence the prosecution case.

4. I submit that during the course of remand the learned district and Munsif cum Judicial Magistrate at Utthukottai forwarded the petitioner herein for psychiatric treatment to the mental health hospital Kilpauk on the same day. In the mean my mother filed a petition under Section 22(7)(iv) of Mental Health Act, 1987 praying to transfer the petitioner from Kilpauk Mental Health Hospital to Shri Ramachandiran Mental Hospital for further treatment for petitioner's personal care and protection in Crl.M.P.No.490 of 2021. After hearing both side arguments the learned Magistrate by an order dated on 16.02.2021 was pleased to pass the following order:

“Hence this Court directed to the director of Mental Health Institute, Kilpauk to discharge the patient namely M.Nagenran S/o. Muthu to further treatment regarding his mental illness to Shri Ramachandira Mental Health Center. The petitioner usha taking care and protection of the patient under taking given by this Court. So discharge and handover to the patient on his wife Usha”.



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5. I humbly submit that after the above I continued my father's treatment at Mental Health Hospital Kilpauk till date. Due to the continuous treatment my father is now cured completely and mental fitness certificate was issued by the authority concerned. My father is now completely recovered from his mental illness and now completely restored to his normal life. My father is already working as a foreman in Tamil Nadu Generation and Distribution Corporation for the past 20 years without any un-blemished records. Due to the pending of this case suspension memo Memo No: AEE/oxm/TNR/f suspension / D.No.70/ du dated 25.02.2021 was already issued to him and now a situation has aroused that he may lose his job.

6. I humbly submit that at present I am living with my father, mother and my two sisters in our house and my husband is taking care of our entire family. My sisters are studying in school. My father is the sole bread winner and who takes care of ourt entire family. After realizing all these entire facts. I am not interested in perusing on my statement and complaint in this case. Hence in order to purchase peace the matter has been



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amicably settled between us and I have no objection in quashing this FIR.

7. Affidavit filed by the fourth respondent is extracted hereunder:-

“3. I humbly submit that the case of the prosecution is that the defacto complainant is one late Sekar, who is residing at Annavaram Colony and Mukkarapakkam Village, Tiruvallur District. We are the neighbors of the defacto complainant. The petitioner is my sister's son. He was mentally ill during at the time of occurrence. As per the complaint it is alleged that the petitioner often used to quarrel with our family members and did not go to job. On 22.01.2021 at about 3.00 A.M my son quarreled with his wife and started to assault her. All of sudden it is alleged that he took a knife and stabbed her on the left forehead. When our paternal daughter Monika tried to prevent the attack she was also stabbed by my son with a knife on the left hand index finger. It is further alleged that my son also assaulted me on the back of his knife. On seeing this attack the defato complainant tried to prevent the attack. The petitioner said to stabbed him as well on his left ear and ran away from the scene of occurrence. Sustaining bleeding injuries all the injured persons were taken to government hospital Uthukkottai and First Aid



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was given to us. Then we were forwarded to Government Hospital Thiruvallur for further treatment. When the defacto-complainant was in hospital for treatment a statement was received by the first respondent police and a case was registered in Crime No:16 of 2021 under Sections 294(b), 323, 324, 506(ii) read with Section 24 of Mental Health Act, 1987. Hence the prosecution case.

4. I submit that during the course of remand the learned district and Munsif cum Judicial Magistrate at Utthukottai forwarded the petitioner herein for psychiatric treatment to the mental health hospital Kilpauk on the same day. In the mean my mother filed a petition under Section 22(7)(iv) of Mental Health Act, 1987 praying to transfer the petitioner from Kilpauk Mental Health Hospital to Shri Ramachandiran Mental Hospital for further treatment for petitioner's personal care and protection in Crl.M.P.No.490 of 2021. After hearing both side arguments the learned Magistrate by an order dated on 16.02.2021 was pleased to pass the following order:

“Hence this Court directed to the director of Mental Health Institute, Kilpauk to discharge the patient namely M.Nagenran S/o. Muthu to



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further treatment regarding his mental illness to Shri Ramachandira Mental Health Center. The petitioner usha taking care and protection of the patient under taking given by this Court. So discharge and handover to the patient on his wife Usha”.

5. I humbly submit that after the petitioner continued treatment at Mental Health Hospital Kilpauk till date. Due to the continuous treatment my son is now cured completely and mental fitness certificate was issued by the authority concerned. My son is now completely recovered from his mental illness and now completely restored to his normal life. My son is already working as a foreman in Tamil Nadu Generation and Distribution Corporation for the past 20 years without any un-blemished records. Due to the pending of this case suspension memo Memo No: AEE/oxm/TNR/f suspension / D.No.70/ du dated 25.02.2021 was already issued to him and now a situation has aroused that he may lose his job.

6. I humbly submit that at present I am living with his wife along with three children in his house and he is taking care of our entire family. The petitioner's elder



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daughter is at the verge of her marriage and other two female children are studying in school. My son is the sole bread winner and who takes care of our entire family. After realizing all these entire facts. I am not interested in perusing on my statement and complaint in this case. Hence in order to purchase peace the matter has been amicably settled between us and I have no objection in quashing this FIR.”

8. The learned counsel for the petitioner would submit that the petitioner, the defacto complainant and the victims are known to each other. Subsequent to the registration of complaint, the defacto complainant passed away due to illness and the death certificate of the defacto complainant is also enclosed along with the typed set of papers. He would further submit that the victims have filed the affidavits before this Court stating that the matter has been compromised between them and moreover the offences alleged under Sections 294(b), 323, 324, 506(ii) of I.P.C., read with Section 24 of Mental Health Act, 1987 are compoundable in nature. Thereby he would seek for quashing the proceedings in terms of compromise.



9. This Court enquired the petitioner and the second to fourth respondents.

10. The parties have also filed Compromise Affidavit, wherein they have stated that the respondents are willingly consented to the nullification of the criminal proceedings, even though offence are compoundable.

11. 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



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Crl.O.P.No.6549 of 2014

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."

12. 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.



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Crl.O.P.No.6549 of 2017

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."

13. 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.

(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



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Crl.O.P.No.6549 of 2018

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,



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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."

14. 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;



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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



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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."

15. 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.

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16. In the case at hand, the petitioner is charged for the offences punishable under Sections 294(b), 323, 324 and 506(ii) of IPC read with Section 24 of the Mental Health Act, 1987. Now, the petitioner and the respondents have amicably settled their disputes between themselves.

17. 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 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.

18. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in Crime No.16 of 2021 on the file of the Inspector of Police, Uthukkottai Police Station, Thiruvallur District is quashed and the compromise affidavit of the second to fourth respondents dated 28.03.2022, shall form part of Court records.



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28.03.2022

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

rgm/arb

To

- 1.The Inspector of Police,
C-1, Utthukottai Police Station,
Thiruvallur District.
- 2.The Public Prosecutor,
High Court, Madras.

A.D.JAGADISH CHANDIRA,J.

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31.03.2022