



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.2.2022.

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Original Petition Nos.20664 of 2020,
1042 of 2021 and
Crl.M.P.Nos.8734 of 2020 and 646 of 2021

Crl.O.P.No.20664 of 2020

1. Manohar
2. Vijayakumar

Petitioners

vs.

1.State, rep. by its
The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai.
(Crime No.16 of 2020)

Respondent/2nd Respondent
/Defacto Complainant

2.Miss.Shilpa

Crl.O.P.No.1042 of 2021

Vinesh Manohar

Petitioner/Accused No.1

vs.

State, rep. by its
The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai.
(Crime No.16 of 2020)

Respondent No.1

Miss.Shilpa

Respondent No.2
/Defacto Complainant

Criminal Original Petitions filed under Section 482 Cr.P.C.
to call for the entire records comprised in FIR in Crime No.16
of 2020 pending on the file of the Inspector of Police, W-19,
All Women Police Station, Adyar, Chennai, the first respondent
herein and quash the same.



WEB COPY

For Petitioner : Mr.Vimal Bobby Crimson

For Respondent : Mr.A.Gokulakrishnan, APP

For Respondent No.2 : Mr.Rahul Jagannathan

COMMON ORDER

The petitions have been filed to call for the entire records comprised in FIR in Crime No.16 of 2020 pending on the file of the Inspector of Police, W-19, All Women Police Station, Adyar, Chennai, the first respondent herein and quash the same.

2. The factual aspects that led to filing of the present Criminal Original Petitions are as under:-

The de facto complainant/second respondent in Cr1.O.P.No.1042 of 2021 had been in love affair with the petitioner therein/A1 from the year 2016 and they had physical relationship on the understanding that they would get married to each other and when the petitioner/A1 had tried to move abroad, the de facto complainant, on the presumption that he would leave her and stay with another girl in abroad, had lodged a police complainant, which came to be registered in CSR No.137 of 2020 with the resultant change in the behaviour of the accused parties and at the instance of the de facto complainant, a case was registered against the accused parties for the offences punishable under Sections 417, 294(b), 376, 506(i) IPC in Crime No.16 of 2020, which is sought to be quashed by the parents of A1, who ranked as A2 and A3 by filing Cr1.O.P.No.20664 of 2020 and by A1 by filing Cr1.O.P.No.1042 of 2021.

3. It appears that pending the Criminal Original Petitions, the parties have entered into a compromise and when the matter is called upon today for hearing, they have filed the Joint Memo of Compromise duly signed by them and their counsel, relevant portion of which reads as under:-

"3. We humbly state that the alleged case of the Prosecution as per the averments in FIR that the complainant had been in a love and affair with the Petitioner/Accused-1 since 2016 and this was known to both side of the members and both had physical intimacy, and all of a sudden the Accused-1 trying to move USA for higher studies on September 2020 and he is enable to stay with a girl at USA hence 2nd Respondent/Complainant preferred a complaint in CSR No.137/2020 before the 1st Respondent herein and during enquiry both side appeared and ended in compromise hence the 1st Complaint closed as withdrawn. Further the



WEB COPY

Accused-1 blocked her phone number therefore the complainant had been to the petitioner's residence on 11.10.2020 where the Petitioner's parents prevented her from meeting the Petitioner/Accused-1, and the Accused-2 came close and tried to harass and tried to chase hence the Complaint and on receipt of the same the 1st Respondent herein registered FIR in Crime No: 16/2020 for the alleged offences under section 417, 294(b), 376 & 506(I) of I.P.C.

4. We humbly submit that the nature of the complaint is based on a love quarrel between the de-facto complainant and the 1st accused, further submit that the de-facto complainant and the first accused went to the same medical college and at present the de facto complainant is a qualified MD in radiology and the 1st accused is a practising physician in Chennai. It is further submitted that the de-facto complainant and the accused come from reputed families and are also doctors by profession and they have reached a mutual agreement to maintain a cordial relationship. It is further submitted that the de-facto complainant does not wish to press the criminal case as against the accused individuals any further. Hence the parties have chosen to amicably settle their disputes and file this present joint affidavit before this Hon'ble court to secure the ends of justice.

5. We humbly submit that there is no coercion or forcible from any quarters to the Complainant to settle the issues and however considering the welfare of the Accused-1 and Complainant future and career; hence we filed this Joint affidavit without any coercion.

6. We humbly submit that the complainant's family and the Accused-1 to 3 forget all the past and bitter incidents happened both side and the family members, friends and colleagues advised and suggested us to settle the issues between us amicably for the future interest and not to persuade the case against the Accused 1 to 3 therefore we arrived to compound the case pending FIR in Crime No.16/2020 for the alleged offences under section 417, 294(b), 376 & 506(1) of I.P.C.

7. We humbly submits before this Hon'ble Court that the Complainant and Accused amicably settled the issue between themselves and filed this present joint compromise affidavit to compound the case, FIR in Crime No.16/2020 on the



WEB COPY

file of 1st respondent herein for the alleged offences under section 417, 294(b), 376 & 506(1) of I.P.C., and allow this present Quash petition on the file of this Hon'ble Court in the interest of justice."

4. The petitioners/A1 to A3 were present before this court and the de facto complainant appeared through video conferencing. When enquired, the second respondent/de facto complainant had submitted that there was a consensual physical relationship between herself and the first petitioner/accused and since he attempted to leave the country without informing her, she had preferred a complaint out of anxiety and that now, the matter has been compromised between them.

5. Learned counsel Mr.Rahul Jagannathan appearing for the second respondent/de facto complainant would submit that the complaint has been given out of anxiety that the accused was staking steps to leave the country without informing her. He would, on instructions from the de facto complainant, submit that the relationship between the parties was only consensual in nature and the parties have entered into a compromise and they intend to give quietus to the issue between them and thereby, he would submit that the de facto complainant has no objection for setting aside the case Crime No.16 of 2020 pending against the petitioners/A1 to A3 by allowing both the Criminal Original Petitions.

6. Heard the learned counsel appearing for the petitioners and the de facto complainant and they were identified by their respective counsel.

7. The case has been registered for offences under Sections 417, 294(b), 376, 506(i) 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.

8. 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



WEB COPY

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."

9. 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 private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special



WEB COPY

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."

10. 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



WEB COPY

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 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."

11. 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 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



WEB COPY

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."

12. In State of Madhya Pradesh vs. Dhruv Gurjar and another ((2019) 5 SCC 570), the Hon'ble Supreme Court, while summarizing the principles regarding quashment of non-compoundable offences, has held that the key issues to be considered are whether the offence in question was more in the nature of crime against a Society or more a personal wrong.

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

14. In the case on hand, the petitioners are charged for offences punishable under Sections 417, 294(b), 376, 506(i) IPC. Now, the petitioners and the second respondent/de facto complainant have amicably settled the dispute between them. The second respondent has also stated that out of anxiety alone, she had lodged the police complaint against the petitioners and now, she is also not interested in prosecuting the criminal proceedings.



15. Though the offences alleged against the petitioners are of serious and grave in nature, the dispute seems to be one of private in nature and the same may not have social impact. Further, 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 as well and hence, in order to secure the ends of justice, this court is inclined to quash the criminal proceedings against the petitioners.

16. Therefore, in view of the compromise entered into between the parties, the FIR in Crime No.16/2020 is quashed. The Criminal Original Petitions are allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed. The petitioners are directed to deposit a sum Rs.30,000/- (Rs.10,000/- each) in total to the Advocates Welfare Fund.

Post the matter on 1.3.2022 for reporting compliance.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai.

2. The Public Prosecutor,
High Court, Madras.

Copy to:

The Secretary,
Advocates Welfare Fund Association,
High Court, Madras

2. The Section Officer,
Criminal Section, High Court, Madras.

+1 cc to Mr. Vimal Bobby Crimson, Advocate Sr.NO. 9781

+1 cc to Mr. Vimal Bobby Crimson, Advocate Sr.NO. 9780 (23.02.2022)

Crl. O.P.Nos. 20664 of 2020, 1042 of 2021
and

Crl.M.P.Nos. 8734 of 2020 and 646 of 2021

mg (CO)

A.SK (22.02.2022)