



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 04.04.2022
PRONOUNCED ON: 27.04.2022
CORAM
THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

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Crl.O.P. (MD)No.12851 of 2018
and
Crl.M.P. (MD)Nos.5843 and 5844 of 2018

1.Nagoor Meeran
2.Nazeem
3.Rajathi @ Sabeen Fathima
4.Roja @ Bathur Nisha Begam : Petitioners/Accused Nos.1,3,4 & 5

Vs.

1.The Inspector of Police,
All Women Police Station,
Manaparai,
Trichy District. : 1st Respondent / Complainant
2.Jamia Begam : 2nd Respondent/Defacto complainant

PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for the records in C.C.No.208 of 2014, on the file of the Judicial Magistrate, Manaparai and quash the same.

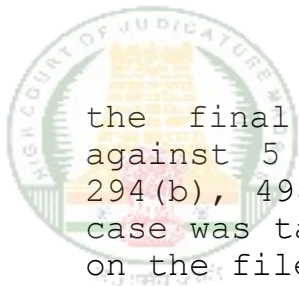
For Petitioners : Mr.T.K.Gopalan

For Respondents : Mr.M.Muthu Manikkam
Government Advocate (Crl.Side)
for R.1
: Mr.K.Govindarajan
for R.2

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records in C.C.No.208 of 2014, pending on the file of the Court of Judicial Magistrate, Manaparai and quash the same.

2. The petitioners are the accused Nos.1, 3, 4 and 5 in C.C.No.208 of 2014, on the file of the Judicial Magistrate Court, Manaparai. On the basis of the complaint lodged by the second respondent, F.I.R., came to be registered in Cr.No.4 of 2014, dated 11.04.2014, under Sections 498(A), 406, 506(i) I.P.C., and Section 4 of TNWH Act against 5 persons including the petitioners herein. The first respondent, after completing the investigation, has laid



the final report dated 02.06.2014, under Section 173 Cr.P.C., against 5 persons including the petitioners herein under Sections 294(b), 498(A), 406, 506(ii) I.P.C., r/w 4 of TNHW Act and that the case was taken on file in C.C.No.208 of 2014 and the same is pending on the file of the Judicial Magistrate Court, Manaparai.

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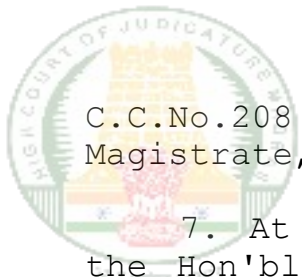
3. Admittedly, the first petitioner and the defacto complainant got married on 05.07.1999 and the same was a second marriage for both parties, that the second accused Mimoon Beevi is the mother of the first accused and after filing of the charge sheet, the second accused had died and that the other accused are the relatives of the first accused.

4. The case of the prosecution is that at the time of marriage, the parents of the defacto complainant gave 100 sovereigns of jewels and cash of Rs.20,00,000/-, that due to their wed lock, one male child was born to them, that the first petitioner and the defacto complainant had jointly purchased a house property, that the first petitioner along with his family members had been demanding more dowry and in case of failure, he would enter into third marriage and that all the accused had attempted to pour kerosene and to set fire on the defacto complainant. Hence, the present complaint.

5. The petitioners' case is that all the allegations levelled in the complaint are all false and are created for the purpose of lodging the complaint, that immediately after lodging the complaint on 11.04.2014, the respondent police without any enquiry, has arrested the first petitioner and produced him before the learned Judicial Magistrate, Manaparai, and that the learned Judicial Magistrate has rejected the remand requisition and set the first petitioner at liberty.

6. The petitioners' further case is that after filing of the charge sheet and the case was taken on file in C.C.No.208 of 2014, on the file of the Judicial Magistrate, Manaparai, the defacto complainant and her parents have come forward to compromise the matter, since the close relatives, friends and elders of the Society and also the jamath committee members have advised both parties and on that basis, they have entered into compromise, that the first petitioner, in pursuance of the said compromise, has executed a release deed dated 11.07.2014 vide document No.1662/2014, wherein he had released his half share in the property jointly purchased by him and the defacto complainant and that they have also incorporated some more compromise terms in the release deed itself, that the defacto complainant has agreed to withdraw the above complaint registered in Cr.No.4 of 2014 and also undertakes not to take any other civil or criminal action against the first petitioner or his relatives and that the defacto complainant, after accepting the compromise, has not chosen to withdraw the complaint and that therefore, the first petitioner along with other accused were

<https://hcservices.mca.gov.in/hcservices/>



C.C.No.208 of 2014, pending on the file of the Court of Judicial Magistrate, Manaparai.

7. At this juncture it is necessary to refer the judgment of the Hon'ble Supreme Court in **Narinder Singh & Others vs State Of Punjab and another** passed in **Criminal Appeal No.686 of 2014, dated 27.03.2014** and the relevant passages are extracted hereunder:

"31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) 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.

(II) 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.

(III) 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 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.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly 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.

(V) 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.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. 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 proving 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. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show



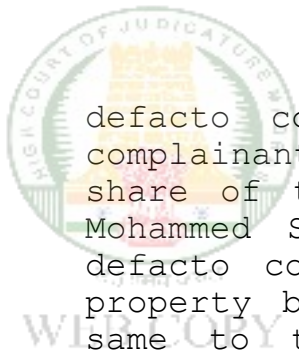
benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

8. The above decision is squarely applicable to the case on hand. In the case of matrimonial disputes, if the parties enter into a compromise and amicably settle the disputes between them, that can be considered a good reason or ground to quash the criminal proceedings between them.

9. In the case on hand, the main contention of the petitioners is that the defacto complainant and the first petitioner have entered into a compromise and only on that basis, the first respondent has executed a release deed, in which the defacto complainant after accepting the terms of compromise has subscribed her signature and that after receiving the benefits therefrom, she has not chosen to withdraw the complaint, which is very much against the terms of the compromise.

10. The learned Counsel for the second respondent would submit that the first petitioner did not abide by the terms of compromise entered into between the parties and that since the first petitioner has failed to comply with the terms of the release deed, the present petition to quash the criminal proceedings on the basis of the compromise is liable to be dismissed. He would further submit that since the first petitioner has not complied with the terms of the compromise, there is no compromise as of now and that therefore, the question of quashing the proceedings does not arise.

11. The learned Counsel for the petitioners would submit that only in pursuance of the compromise, the release deed dated 11.07.2014 was executed, that the first petitioner has relinquished <https://hcservices.mca2gov.in/hcservices/> in the property purchased by him along with the



defacto complainant, that after the release deed, the defacto complainant has subsequently sold the entire property including the share of the first petitioner which was released by him, to one Mohammed Sherif, vide sale deed dated 20.11.2017, and that the defacto complainant after receiving the half share in the house property belonging to the first petitioner and after selling the same to the third party, cannot be allowed to say that the compromise was not acted upon.

12. As rightly pointed out by the learned Counsel for the petitioners, the defacto complainant, in the release deed, after specifically accepting the compromise, has subscribed her signature in the document itself. Moreover, as rightly pointed out by the learned Counsel for the petitioners, she has specifically agreed to withdraw the case, registered in Cr.No.4 of 2014 and also undertakes not to take any civil or criminal action against the first petitioner and his relatives.

13. The learned Counsel for the second respondent would contend that the jewels and cash which were given at the time of marriage of the defacto complainant with the first petitioner were not at all returned and that since the jewels and cash were with the first petitioner, there was no compromise between the parties, as alleged by the petitioners' side. But as rightly pointed out by the learned Counsel for the petitioners, in the release deed itself, it has been specifically mentioned that the petitioners as well as the defacto complainant will not claim any jewels, cash or sridhana articles from each other and there were no transactions between them and that they will not claim any right or share in the others movable or immovable properties.

14. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***Ganesh vs Sudhirkumar Shrivastava and others*** in Civil Appeal Nos.4031-4032 of 2019, dated 22.04.2019. In that case, the husband has filed an application for divorce before the Family Court and the matter was referred to counsellors where the parties had entered into consent terms and on that basis, they have amended the petition as one under Section 13-B of the Hindu Marriage Act, 1955 and thereafter decree for divorce was granted. In the consent terms, the wife had agreed to take back the complaint lodged by her against her husband and his relatives and that since the wife has failed to comply with the said compromise, the husband has filed a contempt petition and the same was dismissed by the High Court. When the same was challenged before the Hon'ble Supreme Court, the Hon'ble Supreme Court has observed as follows:

"Without going into the question whether the appeal was maintainable or not, in our view, appropriate course to be adopted in the matter is to effectuate the understanding as culled out in para no.10 of the Consent Terms. If the



parties had arrived at a settlement and decided to withdraw the cases filed by each of the parties against the other, the compromise ought to be effectuated in complete sense. The law on the point is well-settled by the decision of this Court in *Gian Singh v. State of Punjab & Another*, (2012) 10 SCC

Leaving aside the technicalities, we therefore deem it appropriate to quash the proceedings which were initiated at the instance of the respondent-wife i.e. FIR No.148 of 2015 dated 04.09.2015 registered with Police Station Pathri District Parbhani. Further proceedings in said FIR now stand quashed."

15. The above decision is squarely applicable to the case on hand. As already pointed out, in the present case also, the defacto complainant had consented to withdraw the complaint registered in Cr.No.4 of 2014, but after receiving the substantial benefits under the release deed, she had taken a 'U' turn and stated that the compromise was not acted upon. Though the learned Counsel for the second respondent has alleged that the compromise was not acted upon, he has not specified the terms of the compromise, which were not complied with, by the first petitioner.

16. The learned Counsel for the petitioners would submit that the defacto complainant had again married her first husband and now she is living with him along with the children born to them earlier.

17. As rightly contended by the learned Counsel for the petitioners, since the defacto complainant has already received the benefits under the release deed, which was executed in pursuance of the compromise entered into between the parties, the defacto complainant cannot be allowed to backtrack the consent already given for withdrawing the complaint lodged by her.

18. On considering the entire facts and circumstances, it is clearly evident that the parties had entered into compromise and on that basis, the first petitioner had executed a release deed and the same was accepted by the defacto complainant and also consented to withdraw the case filed by the defacto complainant against the other side and that therefore, the compromise entered into between the parties should be given effect. Neither the first respondent nor the second respondent has raised any other acceptable reason or ground to challenge the relief sought for by the petitioners.

19. Considering the above, this Court is of the view that permitting the proceedings to proceed further would only amount to abuse of process of law. Hence, this Court concludes that the charge sheet filed in C.C.No.208 of 2014, pending on the file of the Judicial Magistrate Court, Manaparai is liable to be quashed.



20. In the result, the Criminal Original Petition is allowed and the charge sheet sheet filed in C.C.No.208 of 2014, pending on the file of the Judicial Magistrate Court, Manaparai, as against the petitioners is quashed. Consequently the connected Miscellaneous Petitions are closed.

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Assistant Registrar (CO)

// True Copy //

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate, Manaparai.

2. The Inspector of Police,
All Women Police Station,
Manaparai,
Trichy District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.K. GOPALAN, Advocate
(SR-22022[F] dated 28/04/2022)

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-22847[F] dated 29/04/2022)

PRE-DELIVERY ORDER MADE IN

Crl.O.P. (MD)No.12851 of 2018
27.04..2022

MK/25.05.2022/8P/6C