



Crl.O.P.(MD)No.5111 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on	31.08.2023
Delivered on	25.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.5111 of 2023
and Crl.M.P.(MD) No.4503 of 2023

1.Abinav
2.S.Sivakumar
3.S.Banumathi
4.S.Arthika

... Petitioners/
Accused 1 - 4

Vs.

1. The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai City.
(Crime No.68 of 2022)

... 1st Respondent/
Complainant

2. Krithika

... 2nd Respondent /
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the FIR in Crime No.68 of 2022 on pending before the first respondent police dated



Crl.O.P.(MD)No.5111 of 2023

10.12.2022 and quash the same.

WEB COPY

For Petitioners : Mr.J.Anandkumar

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
for R1
Mr.M.Jegadeesh Pandian for R2

ORDER

This petition has been filed seeking quashment of FIR in Crime No.68 of 2022 pending on the file of the first respondent.

2. The case of the prosecution is that the first petitioner is the husband of the defacto complainant. The second and third petitioners are the father-in-law and mother-in-law of the defacto complainant. The fourth petitioner is the sister-in-law of the defacto complainant. At the time of the marriage between the first petitioner and the defacto complainant on 10.09.2021, certain gold jewels and silver articles were presented to the defacto complainant by her parents. It is alleged that the petitioners have harassed and demanded the defacto complainant to give over dowry and caused criminal intimidation against the family members



Crl.O.P.(MD)No.5111 of 2023

of the defacto complainant thereby a complaint was given by the defacto complainant on which a case was registered against the petitioners in Crime No.68 of 2022 for the offences punishable under Sections 448(A), 406 and 506(i) of IPC, by the first respondent police.

3. It is submitted by the learned counsel for the petitioners that earlier this Court while considering the bail application filed by the first petitioner herein had appointed an advocate commissioner for taking the inventory of articles to be handed over the same to the defacto complainant. Thereafter, anticipatory bail was granted to the first petitioner and all the jewels which belongs to the defacto complainant was also handed over to her. Learned counsel also submits that this Court has recorded the non-payment of Rs.8.5 lakhs by the petitioners to the defacto complainant and that the parties have also agreed to adjudicate the rest of the matters before the appropriate forum while deciding the matrimonial dispute.

4. Today when the matter was taken up for consideration, it is submitted by the learned counsel for the petitioners/accused 1 to 4 as



Crl.O.P.(MD)No.5111 of 2023

well as the second respondent/defacto complainant that the parties have settled the disputes among themselves amicably before the Mediation and Conciliation Centre attached to this Court and the settlement agreement was also signed by all the parties and also by their respective counsel and copy of which is filed before this Court. However, the question is whether this Court can permit the petitioners to compromise and basing on such compromise, whether the criminal case against the petitioner in Crime No.68 of 2022 registered for the offences under Sections 469(A), 406 and 506(i) of IPC can be quashed.

5. In the case of *Yogendra Yadav and Ors. v. The State of Jharkhand & another*, in Criminal Appeal No.1205 of 2014, the Hon'ble Supreme Court of India held as follows:-

“4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab*). However, in a given case, the High Court can quash a



criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

6. In another case of ***Ramgopal and Ors. v. The State of Madhya Pradesh***, reported in ***2021 (6) CTC 240***, the Hon'ble Supreme Court of



Crl.O.P.(MD)No.5111 of 2023

India reiterated the exercise of powers under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings in respect of non-compoundable offences. The relevant paragraphs read as under:-

"18. It is now a well crystalized axiom that plenary jurisdiction of this Court to impart complete justice under Article 142 cannot *ipso facto* be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sumup and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences



Crl.O.P.(MD)No.5111 of 2023

‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

7. As per the directions of this Court, the Mediation and Conciliation Centre attached to this Court was asked to verify the identities of the defacto complainant and also the accused with reference to the acceptable identity cards like Aadhar Card etc. and also make an informal inquiry as to whether the defacto complainant has been accepting with the compromise voluntarily without any force or



Crl.O.P.(MD)No.5111 of 2023

coercement. Accordingly, the Deputy Registrar (Lok Adalat/Mediation and Conciliation Centre) has examined the defacto complainant and accused persons and ultimately, sent a report that both the parties executed an agreement and that the petitioners have promised to give Rs. 45 lakhs to the defacto complainant and withdraw their own cases.

8. As per compromise arrived at between the parties, the petitioners have agreed to pay a sum of Rs.45 lakhs to the defacto complainant of which Rs.40 lakhs have already paid to the defacto complainant for which acknowledgement is also enclosed. Learned counsel for the defacto complainant has also acknowledged the same before the Court stating that the defacto complainant has received Rs.40 lakhs. Insofar as for the remaining amount of Rs.5 lakhs is concerned, it is agreed between the parties that soon after the disposal of the divorce petition pending before the Family Court, the balance amount of Rs.5 lakhs will be paid by the petitioner to the defacto complainant. The defacto complainant who is present in the Court has reported that the balance amount of Rs.5 lakhs were agreed to be taken after disposal of divorce petition before the family court. has also no objection in respect



Crl.O.P.(MD)No.5111 of 2023

of the submission made by learned counsel on record for the second respondent/defacto complainant.

9. In view of the settlement arrived between the parties, this Court is of the opinion that no useful purpose will be served by keeping the matter pending and inclined to quash all further proceedings in Crime No.68 of 2022 pending on the file of the first respondent police.

10. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.68 of 2022 pending on the file of the first respondent police is hereby quashed. The compromise memo is recorded and the same shall form part of this order. Consequently, connected miscellaneous petition is closed.

25.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN



WEB COPY



Crl.O.P.(MD)No.5111 of 2023

To

1. The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai City.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.5111 of 2023

DR.D.NAGARJUN,J

PKN

Crl.O.P.(MD)No.5111 of 2023

Dated: 25.09.2023