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Crl.O.P.(MD)No.13602 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	25.08.2023
Delivered on	11.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.13602 of 2023

1.Thangadurai
2.Vishwa
3.Pitchaikani
4.Tamilan @ Tamilarasan

... Petitioners/
Accused Nos.1 to 4

Vs.

1. The Inspector of Police,
Ealayirampennai Police Station,
Virudhunagar District.
(Crime No.88/2023)

... 1st Respondent/
Complainant

2. Vallarasu

... 2nd Respondent /
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records relating to the FIR in Crime No.88 of 2015 on the file of the first respondent police and quash the same.

For Petitioners : Mr.S.Sathya Chidambaram

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
for R1



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Mr.A.Balaji for R2

ORDER

This petition has been filed seeking quashment of First Information Report (FIR) in Crime No.88 of 2023 on the file of the first respondent police.

2. The contention of the petitioners is that when the defacto complainant along with his friends returned back to their home, the first petitioner's dog chased and that the defacto complainant and his friends fell down from the vehicle thereby a case was registered against the petitioner in Crime No.88 of 2023 for the offences punishable under Sections 294(b), 323, 427 and 506(i) of IPC.

3. It is further submitted by the learned counsel for the petitioner/accused as well as the second respondent/defacto complainant that the parties have compromised the disputes between them amicably before the High Court Legal Services Committee attached to this Court and the settlement agreement duly signed by the parties and also by their respective counsel has been filed before this Court. However, the



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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.88 of 2023 can be quashed.

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



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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 '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."



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5. The High Court Legal Services Committee attached to this Court was directed to verify the identities of the defacto complainant and 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 for compromise voluntarily. Accordingly, the Officer incharge of the High Court Legal Services Committee/ Registrar (Judicial) sent a report after verifying their identities.

6. The offences alleged against the petitioners by the defacto complainant are under Sections 294(b), 323, 427 and 506(ii) of IPC. According to the learned counsel for the petitioners, even if the contents of FIR are accepted to be true, there are no grounds to hold that the petitioners have committed the offences under 294(b), 323, 427 and 506 (i) of IPC. It is submitted by the petitioner even if the charge sheet contents are accepted to be true still offence under Section 294(b) of IPC cannot be fastened to the facts of this case as the offence allegedly took place not in public view. Similarly, so far as offence under Section 506(i)



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of IPC is concerned, according to the petitioner there was no intention on the part of the defacto complainant to intimidate the petitioner criminally.

Insofar as Section 427 of IPC is concerned, it is submitted that neither the first petitioner nor his family members commit any mischievous act and thereby have not caused any loss to the defacto complainant. Finally, in respect of offence under Section 323 of IPC, it is submitted that there is no material to show that the defacto complainant has voluntarily caused hurt by the petitioners. Therefore, even basing on the merits also there is a case for the petitioners.

7. Further, the offences alleged against the petitioner are not also grievous in nature and the defacto complainant and the petitioners are coming forward to settle their disputes amicably. In case if trial is conducted, the defacto complainant and others required to appear before the Court to give evidence against the petitioners thereby the animosity between them will continue. When both parties are coming together to resolve the disputes amicably and wanted to compromise the criminal case and when it is not on account of coercion and undue influence, this Court is of the opinion that the compromise can be recorded in order to



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meet the complete justice. Accordingly, this compromise is recorded.

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8. In view of the 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. 88 of 2023 pending on the file of the first respondent police.

9. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.88 of 2023, 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.

.09.2023

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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DR.D.NAGARJUN,J

PKN

To

1. The Inspector of Police,
Ealayirampennai Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Dated: 11.09.2023
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