



Crl.O.P.(MD)No.13334 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	17.08.2023
Delivered on	21.08.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.13334 of 2023

1.Mythukumar

2.Mayandi @ Malaiyandi

3.Muthuanna

... Petitioners

Vs.

1. Deputy Superintendent of Police,
Srivaikundam Sub-Division,
Thoothukudi District.

2. The State represent through the
Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
Crime No.175 of 2023.

2. Madasamy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records relating to the Crime No.175 of 2023 dated 05.07.2023 pending on the file of Srivaikundam Police Station and quash the same as illegal.



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For Petitioners : Mr.S.Saravanan

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)
for R1 and R2
Mr.V.Jayalakshmi for R3

ORDER

This petition has been filed seeking quashment of First Information Report (FIR) in Crime No.175 of 2023 on the file of the second respondent police.

2. The case of the prosecution is that the petitioners and the defacto complainant are the neighbours and residing in the same locality. At about 04.00 p.m. on 04.07.2023, when the defacto complainant tried to stop the auto, there was exchange of words between the defacto complainant and accused 1 to 3, on which a complaint was lodged against the petitioners/accused 1 to 3. The respondents police have registered a case in Crime No.175 of 2023 against the petitioners for the offences punishable under Sections 294(b), 323, 506(ii) of IPC and 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes



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(Prevention of Atrocities) Amendment Act, 2015 and investigation is pending.

3. It is further submitted by the learned counsel for the petitioners as well as the third respondent/defacto complainant that the parties have compromised the disputes between them amicably before the Mediation and Conciliation Centre 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 question is whether this Court can permit the petitioner to compromise and basing on such compromise, whether the criminal case against the petitioner in Crime No.175 of 2023 can be quashed.

4. In order to consider any complaint for the offences under the SC/ST Act, the defacto complainant and prosecution are expected to make out a case that there is an intention on the part of the petitioners/accused to incite caste feelings of the defacto complainant.



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5. 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 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



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behind bars is aimed at his reformation.

19. We thus sum up 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."

6. As per the directions of this Court, the High Court Legal Services Committee attached to this Court was asked to verify the identities of the defacto complainant and also the accused with reference



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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 coercion. Accordingly, the Officer incharge of the High Court Legal Services Committee/ Registrar (Judicial) has examined the defacto complainant and accused persons and ultimately, sent a report that their identities were verified. Further, the accused in this case were charged with the offences under Sections 294(b), 323, 506(ii) of IPC apart from the penal provisions under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. There are no grievous injury on the complainant. This incident allegedly happened on account of sudden provocation as the defacto complainant has allegedly not stopped the auto when the petitioners want the auto to be stopped. Considering the above, this Court is satisfied with the requirement mentioned in the report.

7. In another case in ***Ramawatar vs. State of Madhya Pradesh***, reported in ***AIR 2021 SC 5228***, the Hon'ble Apex Court while quashing the proceedings registered under Section 3(1)(x) of the Scheduled Castes



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and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, held as

under:-

"18. We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure that the complainant victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each case.

19. Having considered the peculiar facts and circumstances of the present case in light of the aforestated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the



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reasons that: Firstly, the very purpose behind Section 3(1)(x) of the SC/ST is to deter castebased insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community. In the present case, the record manifests that there was an undeniable preexisting civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the aforestated civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overarchingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

Secondly, the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although



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the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict their quarters only to certain areas, it is seen that in the present case, the Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socioeconomic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed. Thirdly, the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired. Fourthly, the Complainant has, on her own free will, without any



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compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused. Fifthly, given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded.

Sixthly, the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement.

20. Consequently, and for the aforementioned reasons, we find it appropriate to invoke our powers under Article 142 of the Constitution and quash the criminal proceedings to do complete justice between the parties. As a sequel thereto, judgment and orders passed by the Trial Court and the High Court are set aside. Bail bonds, if any, are discharged. The appeal is allowed in above terms."



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8. It is submitted that the petitioners/accused are neighbours and the defacto complainant is an auto driver and the dispute arose when the petitioners/accused wanted the defacto complainant to stop the auto, however, the defacto complainant ignored and proceeded further thereby exchange of words have taken place. It is also not the case of the defacto complainant that there were disputes between them earlier.

9. Since the defacto complainant and accused are neighbours and there were no any animosity between them earlier to this incident and the alleged incident developed at the spur of the moment and the offence alleged against the petitioner is also not a grievous in nature, this Court is of the opinion that in order to make the complete justice, the compromise between the petitioner, defacto complainant and the accused can be recorded.

10. In view of the aforesaid judgments and also 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. 175 of 2023 pending on the



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file of the respondents police.

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11. In the result, these Criminal Original Petition is allowed and the entire proceedings in Crime No.175 of 2023, pending on the file of the respondents police is hereby quashed. The settlement agreement is recorded and the same shall form part of this order.

21.08.2023

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

To

1. Deputy Superintendent of Police,
Srivaikundam Sub-Division,
Thoothukudi District.
2. Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.

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

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DR.D.NAGARJUN,J

PKN

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Dated: 21.08.2023