



*Crl.O.P.(MD)No.13889 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|              |            |
|--------------|------------|
| Reserved on  | 28.08.2023 |
| Delivered on | 12.09.2023 |

CORAM

**THE HON'BLE DR.JUSTICE D.NAGARJUN**

**Crl.O.P.(MD)No.13889 of 2023**

G.Gopalakrishnan

... Petitioner/  
Accused No.1

Vs.

1. The Inspector of Police,  
Nagamalai Pudukottai Police Station,  
Madurai District.

... 1st Respondent/  
Complainant

2. V.Nanthakumaran

... 2nd Respondent /  
Defacto complainant

3.R.Vijayaragavan

... Respondent No.3  
/ victim

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to Cr.No.73 of 2023 pending on the file of the Inspector of Police, Nagamalai Pudukottai Police Station, Madurai and quash the same.



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For Petitioners : Mr.M.Vivek Kumar  
For Respondents : Mr.SS.Madhavan  
Government Advocate (crl. Side)  
for R1  
Mr.M.Deepakumar for R2 & R3

### **ORDER**

This petition has been filed seeking quashment of Crine No.73 of 2023 pending on the file of the first respondent police.

2. The case of the prosecution is that on a complaint given by the defacto complainant a case was registered in Crime No.73 of 2023 for the offences under Sections 294(b), 324 and 506(ii) of IPC.

3. It is submitted by the learned counsel for the petitioner/accused, the second respondent/defacto complainant as well as the third respondent 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.



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4. 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



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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.”

5. 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 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



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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 ‘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



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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 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. Considering the above, this Court is satisfied with the requirement mentioned in the report.

7. The offences alleged against the petitioners by the defacto complainant are under Sections 294(b), 324 and 506(ii) of IPC. It is alleged by the petitioners even if the charge sheet contents are accepted to be true still the alleged offences cannot be fastened to the facts of this



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case as the offences allegedly took place not in public view. According to the petitioner there was no intention on the part of the petitioner to intimidate the defacto complainant criminally and that there is no material that the defacto complainant has suffered injuries as alleged by him. Therefore, even basing on the facts also there are merits in the petitioner's case. The offences alleged against the petitioner are not grievous in nature and they are also not the offences affecting the society, in fact, these offences took place on account of sudden provocation and that the defacto complainant and the petitioner 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 irrespective of the fact whether the petitioner or the defacto complainant, 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 which will result in 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.73 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.73 of 2023 on the file of the first respondent police are hereby quashed. The compromise memo is recorded and the same shall form part of this order.

**12.09.2023**

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



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To

1. The Inspector of Police,  
Nagamalai Pudukottai Police Station,  
Madurai District.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**DR.D.NAGARJUN,J**

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Dated: 12.09.2023