



Crl.O.P.(MD)No.14494 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	07.09.2023
Delivered on	12.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.14494 of 2023

1. Abdul Sathar

2. Nasrath Kupura

... Petitioners/
Accused 1 & 2

Vs.

1. The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.

... 1st Respondent/
Complainant

2. Mohamed Thoufik

... 2nd Respondent /
Defacto complainant

3. Bavusiha Begam

4. Abrose Banu

... Respondents 3 & 4
/ Injured

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No.



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254 of 2019 on the file of the learned Judicial Magistrate, Kadaladi insofar as the petitioner is concerned and quash the same.

For Petitioners : Mr.D.Venkatesh
For Respondents : Mr.E.Antony Sahaya Prabahar
Addl.Public Prosecutor for R1
Mr.T.Lenin Kumar for R2

ORDER

This petition has been filed seeking quashment of C.C.No.254 of 2019 on the file of the learned Judicial Magistrate, Kadaladi.

2. The case of the prosecution is that on a complaint given by the defacto complainant a case was registered in Crime No.11 of 2018 for the offences under Sections 294(b) and 323 of IPC and Section 4 of the TNPHW Act and after filing of the charge sheet, the same was take on file before the learned Judicial Magistrate, Kadaladi.

3. It is submitted by the learned counsel for the petitioners/accused, the second respondent/defacto complainant as well as the respondents 3 and 4 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



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signed by the parties and also by their respective counsel has been filed before this Court.

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.



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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.”

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



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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 ‘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



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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 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.



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7. The offences alleged against the petitioners by the defacto complainant are under Sections 294(b) and 323 of IPC and Section 4 of the TNPHW Act. 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 case as the offences allegedly took place not in public view. According to the petitioners there was no intention on the part of the petitioners to intimidate the defacto complainant criminally and that there is no material that the defacto complainant has suffered injuries as alleged by them. Therefore, even basing on the facts also there are merits in the petitioners contention. The offences alleged against the petitioners 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 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 irrespective of the fact whether the petitioners 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



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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.

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.506 of 2020 pending on the file of the first respondent police.

9. In the result, this Criminal Original Petition is allowed and the entire proceedings in C.C.No.254 of 2019 on the file of the learned Judicial Magistrate, Kadaladi, are hereby quashed. The settlement agreement 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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1. The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram 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