



WEB COPY



Crl.O.P.(MD)No.18517 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	18.08.2023
Delivered on	29.08.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.18517 of 2022

1.Ashok Samuel
2.Muthukumar

... Petitioners

Vs.

1. The State represented by the
Inspector of Police,
Ayikudi Police Station,
Tirunelveli District.
Crime No.107 of 2019.

... Respondent/Complainant

2. Leela

... Respondent/Defacto
Complainant

3.Sivajothi

... Respondent/Victim

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No. 169 of 2019 on the file of Judicial Magistrate Court, Sengottai, in Crime No.107/2019 under Section 366 of IPC dated 28.06.2019 and quash the same as illegal.

For Petitioners : Mr.D.Balamurugapandi

For Respondents : Mr.SS.Madhavan
Government Advocate (Crl. Side)
for R1
Mr.T.Venkatesan for R2



Crl.O.P.(MD)No.18517 of 2022

ORDER

WEB COPY

This Criminal Original Petition has been filed seeking quashment of C.C.No.169 of 2019 on the file of Judicial Magistrate Court, Sengottai, which has been registered against the petitioners for the offence punishable under Section 366 of IPC.

2. The case of the prosecution is that on 27.06.2019 at around 09.15 p.m., the first petitioner/A1 along with the second petitioner/A2 kidnapped the third respondent who is the daughter of the defacto complainant in a car bearing registration No.TN 72 J 8786, on which a complaint was lodged against the petitioners/accused 1 and 2. The respondent police have registered a case in Crime No.107 of 2019 against the petitioners for the offence punishable under Section 366 of IPC.

3. It is further submitted by the learned counsel for the petitioners, the second respondent/defacto complainant and the third respondent that the parties have compromised the disputes between them amicably before the High Court Legal Services Committee attached to this Court



Crl.O.P.(MD)No.18517 of 2022

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 petitioners to compromise and basing on such compromise, whether the criminal case against the petitioner in Crime No.107 of 2019 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



Crl.O.P.(MD)No.18517 of 2022

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 the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or



Crl.O.P.(MD)No.18517 of 2022

other relevant considerations."

WEB COPY

5. 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.

6. Normally, this Court will not interfere in cases where the offence under Section 366 of IPC is involved. However, in the presence case on hand, the alleged occurrence took place pursuant to the love affair between the daughter of the defacto complainant and the first petitioner/accused No.1. It is also to be noted that the first petitioner/accused No.1 has also married the third respondent and



Crl.O.P.(MD)No.18517 of 2022

leading a happy and peaceful matrimonial life. Therefore, this Court is of the opinion that in order to make the complete justice, the compromise between the petitioners/accused, defacto complainant and the third respondent can be recorded.

7. In view of the aforementioned judgment and also the settlement arrived between the parties, this Court is of the opinion that no useful purpose would be served by keeping the matter pending and inclined to quash all further proceedings in C.C.No.169 of 2019 pending on the file of the Judicial Magistrate Court, Sengottai.

8. In the result, this Criminal Original Petition is allowed and the entire proceedings in C.C.No.169 of 2019 pending on the file of the Judicial Magistrate Court, Sengottai are hereby quashed. The settlement agreement is recorded and the same shall form part of this order.

29.08.2023

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



Crl.O.P.(MD)No.18517 of 2022

WEB COPY

- To
1. The Inspector of Police,
Ayikudi Police Station,
Tirunelveli District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.18517 of 2022

DR.D.NAGARJUN,J

PKN

Crl.O.P.(MD)No.18517 of 2023

Dated: 29.08.2023