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CRL O.P. No.27480 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2024

CORAM

The Hon`ble Mr. Justice P.DHANABAL

Crl. O.P. No.27480 of 2022
and Crl. M.P. Nos.16924 and 16925 of 2022

S. Jeevanantham ... Petitioner / Accused -1
vs.

1. The State represented by:-
The Inspector of Police,
D-6 Anna Square Police Station,
Chennai.
[Cr. No.215 of 2016]

2. David Ambrose S/o. Ambrose Respondent / Complainant

PRAYER: The Criminal Original petition is filed under Section 482 of Criminal Procedure Code to call for records concerned in P.R.C. No.115 of 2017 on the file of II Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

For petitioner : Mr. R. Sankara Subbu
For Respondent : Mrs. G.V. Kasthuri,
Additional Public Prosecutor,
High Court, Madras [for R1]
Mr. J. Gerald [for R2]

ORDER



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This Criminal Original petition has been filed to quash the pending proceedings in PRC No.115 of 2017 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai.

2. The prosecution case is that the defacto complainant is the Professor of law department in Madras University. While so, on 24.03.2016 at about 4 p.m., when he was in his office, this petitioner along with others have entered into the department and abused with obscene language and stabbed him and the same was prevented by him and the accused Jeevanantham assaulted him with wooden hammer and the accused Ranjith assaulted with Chair and also abused with obscene words and caused injuries. Immediately he was taken to hospital and thereby, he lodged a complaint and based on the complaint, FIR has been registered in Cr. No.2515 of 2016 under Sections 294(b), 324 and 506(2) of IPC and thereafter, the matter has been elaborately investigated and after investigation, the final report has been filed as against the petitioner and others for the offences under Sections 294(b), 324 and 506(2) of IPC altered to Sections 294(b), 324 and 506(2) of IPC and Section 3 of



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TNPPDL Act and again altered to Sections 294(b), 307 and 506(2) of IPC and Section 3(i) of TNPPDL Act. Now the case is posted for committal. At this stage, the petitioners have filed this quash petition.

3. During the pendency of the petition, the learned counsel appearing for the petitioner would submit that the matter has been compromised between the parties and the petitioner who is none other than the practising Advocate and the defacto complainant is the Professor of the College where the petitioner studied and the petitioner also tendered apology with the defacto complainant and thereby, the matter has been amicably settled between the parties and also filed a compromise memo.

4. The 2nd respondent / defacto complainant also appeared through his counsel and filed a compromise memo and appeared before this Court in person and he also expressed his willingness and stated that already matter has been settled between the parties, since the petitioner



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was his student and he also tendered unconditional apology and therefore, he has no objection to allow this petition.

5. The learned Additional Public Prosecutor appearing for the 1st respondent police would submit that the offences are grave in nature, thereby he strongly opposed to quash the proceedings.

6. At this juncture, the learned counsel appearing for the petitioner has relied upon a judgement of Hon'ble Supreme Court in ***Narinder Singh and others vs. State of Punjab and another reported in (2014) 6 Supreme Court Cases 466***, wherein the Hon'ble Supreme Court has laid down guidelines in respect of the compounding offences in para No.29.1. to 29.7. as follows:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No



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doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offence committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall into the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest



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its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital / delicate parts of the body, nature of weapons used, etc., Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings / investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances / material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial Court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly,



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in those cases where the conviction is already recorded by the trial Court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial Court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime".

7. On a careful perusal of the above said judgment, it is clear that when the parties have reached the settlement and on that basis, petition for quashing the criminal proceedings is filed, the guiding factors in such cases would be to secure ends of justice or to prevent abuse of the process of any Court. While exercising the power, the High Court has to form an opinion on either of the aforesaid two objectives.

8. In this case, there is a dispute arose between the Professor and student, thereby due to sudden provocation, the occurrence had happened. The injuries sustained by the defacto complainant are also not on the vital parts of the body and the specific overt act as against this petitioner also considered. As per the available records, the victim sustained grievous injury and the petitioner has no intention to cause death to the victim. Therefore, the defacto complainant decided to forgive the student and the Student also tendered unconditional apology,



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thereby, the parties entered into compromise. Moreover in this case, no evidence has been recorded and the case is pending at the stage of committal. At this stage, the parties entered into compromise. Therefore, in order to secure the ends of justice, it is appropriate to allow the petition by applying the law laid down by the Hon'ble Supreme Court in the above said judgment.

9. Therefore, in view of the above discussions and the above said judgment, this Court is of the opinion that it is appropriate to allow this petition.

10. Accordingly, the Criminal Original Petition is allowed and the proceedings in PRC No.115 of 2017 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai are quashed. No costs. The connected miscellaneous petitions are closed.

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To

1. The II Metropolitan Magistrate Court, Egmore, Chennai
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police, D-6 Anna Square Police Station, Chennai.

P.DHANABAL,J

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