



CrI.O.P.(MD) No. 713 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD) No.713 of 2024

S.Muthu @ Muthaiya

... Petitioner

-VS-

1. The State through

The Inspector of Police,
Sernthamaram Police Station,
Tenkasi District
(Crime No.50 of 2016)

2.L.Karadipandian

... Respondents

PRAYER: Petition filed under Section to 482 of the Code of Criminal Procedure, to call for the entire records connected with the case in S.C.No. 692 of 2023 pending on the file of the Sub-ordinate Court / Assistant Sessions Court, Tenkasi and to quash the same.



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For Petitioner : Mr.S.Malaikani
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.side) for R1
: Mr.I.Sabeer Mohamed for R2

ORDER

This Petition is filed by the petitioner to quash the proceedings in S.C.No. 692 of 2023 pending on the file of the Sub-ordinate Court / Assistant Sessions Court, Tenkasi.

2. The case of the prosecution is that the petitioner and the defacto complainant are close relatives. On 15.02.20216, at about 6.00 pm, the defacto complainant went to the bar and consumed liquor, left the petitioner. Due to which, at about 07.00 pm, the petitioner questioned the defacto complainant and abused the defacto complainant and also assaulted him in his private part.

3. The petitioner herein is the sole accused in this case. According to the petitioner, the defacto complainant is his close relative.



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Both were consuming liquor, when the occurrence took place. Even according to the Doctor's evidence, the injury is simple in nature. However, a case under Section 307 I.P.C has been registered. The learned counsel for the petitioner submitted that pending investigation, the accused met with an accident and has lost speaking skills and there is no sense for his hands and legs.

4. Today, the defacto complainant and the petitioner are present before this Court and they have stated that on the intervention of elders, they have amicably resolved the issue among themselves. A compromise memo, dated 23.01.2024, signed by the parties, is also filed before this Court.

5. Before entertaining this application, on the ground of compromise, this Court has directed the investigation officer to personally verify with the defacto complainant and to ascertain whether the compromise is voluntary one, without any threat or coercion. The investigating officer, after due verification, has filed a report as under:



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This is to certify that, as directed by this Court in Crl.O.P.(MD)No.713 of 2024, I personally verified the defacto complainant in Cr.No.50 of 2016 in S.C.No.692 of 2023, for the offence under Sections 341, 294(b) and 307 IPC and ascertained that the compromise arrived between the accused and the defacto complainant / victim in the above case is voluntary, without any threat or coercion.

I further clarify that there are no other victims in this case, except the victims appeared before this Hon'ble Court today.

6. The Hon'ble Supreme Court, while dealing with a compromise quash for a case registered for the offence under Section 307 I.P.C, in the case of **Narinder Singh V. State of Punjab** reported in **2014-6-SCC-466**, has issued certain guidelines 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



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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 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



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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 offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences 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, those criminal cases having overwhelmingly and pre-dominantly 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 in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However,



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the High Court would not rest 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/delegate 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 later 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.



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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 a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, 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,



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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. The petitioner and the de facto complainant are present. This Court has verified the parties with their Aadhaar cards and also verified the present status. The defacto complainant has expressed his willingness to solve the issue and he does not want to prosecute the case any further, in view of the compromise arrived upon between them.

8. Though the case was registered for the offence under Section 307 I.P.C, which would fall in the category of heinous and serious offence and to be treated as a crime against the Society, the Court should not rest its decision newly because there is a mention of Section 307 I.P.C. The Court has to go by the nature of injury sustained, where the injury is inflicted, whether in any vital parts of the body, nature of weapons used, medical report etc.



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9. Going by the nature of injury sustained by the defacto complainant and the medical report, coupled with the compromise arrived between the parties, which would result in harmony between them and improve their future relationship, this Court, following the guidelines issued by the Hon'ble Supreme Court in *Narinder Singh's* case (supra), is inclined to quash the proceedings.

10. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.C.No. 692 of 2023 pending on the file of the Subordinate Court /Assistant Sessions Court, Tenkasi, is hereby quashed. The joint compromise memo, dated 23.01.2024 shall form part and parcel of this order.

22.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

- 1.The Sub-ordinate Court / Assistant Sessions Court,
Tenkasi.
2. The Inspector of Police,
Sernthamaram Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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