



Crl.O.P.(MD)No.1865 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.1865 of 2023

1. Karthik,
2. Muneeswaran,
3. Aravinth,
4. Suriya,
5. Mudhish Kumar @ Muthees,
6. Muniyasamy,
7. Veerasekaran @ Veerasekar,
8. Muthulakshmi,
9. Panchawaranam,

... Petitioners

Vs

1. The Inspector of Police,
Ramanathapuram Police Station,
Ramanathapuram District.
(Crime No.364 of 2016).

2. Tamilarasi,

... Respondents



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Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.364 of 2016 on the file of the first respondent police and quash the same.

For Petitioner	: Mr.P.Vetrivel
For R1	: Mr.P.Kottai Chamy Government Advocate(Crl.side)
For R2	: Mr.Mohammed Riyaz

ORDER

The petitioners are accused in Crime No.364 of 2016 on the file of the first respondent Police Station, which was registered for the offence under Sections 147, 294(b), 427, 323 and 307 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. They have filed this petition to quash the proceedings pending against them.

2.The case of the prosecution is that due to previous enmity, on 10.08.2016, the accused had abused the defacto complainant, gave life threat with dire consequences. Hence the case. The petitioner and the defacto complainant belong to the same.

<https://www.mhc.tn.gov.in/judis3>.Today, the petitioners and the defacto complainant are present before



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this Court and they have stated that on the intervention of the elders, the petitioners and the defacto complainant have amicably resolved their issue. A compromise memo, dated 23.01.2023 signed by the parties, is also filed before this Court.

4.The learned Government Advocate (CrI.Side) raised serious objections to quash the FIR against the accused Nos.1, 2, 3, 4 and 7 and stated that they are having previous cases pending against them. Particularly, the seventh accused is having seven previous cases against him. He further submitted that in this case, after investigation, final report was also filed before the learned Judicial Magistrate No.I, Ramanathapuram and the same is taken on file as C.C.No.14 of 2024.

5.Before entertaining this application on the ground of compromise, this court has directed the investigation officer in Crime No.364 of 2016 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 his report as under:

This is to certify that, as directed by this Court in CrI.O.P.(MD)No.1865 of 2023, I personally verified the defacto complainant in Cr.No.364 of 2016, for the offence under Sections 147, 294(b), 427, 323 and 307 IPC and Section



4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and ascertained that the compromise arrived between the accused and the defacto complainant/victims 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 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 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, 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.

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, 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 Hon'ble Supreme Court in the case of ***Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath***, reported in ***2017 9 SCC 641*** and in case of ***The State of Madhya Pradesh Vs. Dhruv Gurjar and Another*** reported in ***(2019) 2 MLJ CrI 10***, has given sufficient guidelines that must be taken into consideration by this Court while exercising its jurisdiction under Section 482 of Cr.P.C, to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine if the crime in question is purely individual in nature or a crime against the society with overriding public interest. The Hon'ble Supreme Court has held that offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

8. The petitioner and the de facto complainant are present. This Court



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has verified the parties with their Aadhaar cards and also verified the present status. The defacto complainant has expressed her willingness to solve the issue and she does not want to prosecute the case any further, in view of the compromise arrived upon between them.

9. 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 merely 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.

10. Going by the nature of injury reported, 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.

11. Accordingly, by recording the compromise memo this criminal original petition is allowed. The case in Crime No.364 of 2016 on the file of the first respondent and the proceedings in C.C.No.14 of 2024 on the file of



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the learned Judicial Magistrate No.I, Ramanathapuram, are quashed. The joint compromise memo, dated 23.01.2023, shall form part and parcel of this order.

12.Considering the energy and time spent by the respondent police at the time of investigation and also considering the antecedents of the petitioners 1, 2, 3, 4 and 7, they are directed to pay a sum of Rs.5,000 (each) to the respondent police station.

08.04.2024

NCC : Yes/No
Index : Yes/No
Internet:Yes
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B.PUGALENDHI,J

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To

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

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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