



Crl.O.P.(MD)No.3765 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD) No.3765 of 2024

Muthu

... Petitioner

Vs

1.State

Represented by
The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
Crime No.7 of 2023

2.Gayathri

...Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.7 of 2023, dated 18.03.2023 on the file of the first respondent police and to quash the same as against the petitioner.

For Petitioner

For R1

For R2

: Mr.G.Prabahari

: Mr.M.Sakthikumar

Government Advocate (Crl.side)

: Mrs.Jainab Beevi



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ORDER

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The petitioner, who is an accused in Crime No.7 of 2023, dated 18.03.2023 on the file of the first respondent police, for the offence under Sections 294(b), 417, 420 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act has moved this Criminal Original Petition to quash the proceedings in Crime No.7 of 2023 on the file of the first respondent police. He has filed this petition to quash the proceedings pending as against him.

2.The case of the prosecution is that the petitioner and the defacto complainant loved each other and the petitioner promised to marry the defacto complainant had physical relationship with her and later he refused to marry. Hence, the complaint.

3.The learned counsel appearing for the petitioner submits that though a case has been registered on 18.03.2023, the investigation has not yet been completed. Except the statement of two witnesses recorded on 18.03.2023, there is no progress in the investigation. While so, the petitioner has married the defacto complainant and therefore, this



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application has been moved to quash the proceedings pending against the petitioner. Since the petitioner and the defacto complainant have amicably resolved their issue, a Joint compromise memo, dated 03.04.2024 signed by the respective parties has also been filed before this Court to that effect.

4.The Defacto complainant, who is present before this Court has stated that the petitioner has married her and they are also having a child by name Bhuvananth. When this application is taken up for hearing on 22.04.2024, an objection was raised by the respondent police that they are not in a position to identify the parties and the parties are not having documents to satisfy that there was a marriage solemnized between them and a child was born to them.

5.In view of the objections raised by the respondent police, this Court was not inclined to quash the proceedings on that day and posted this matter today.

6.Today(24.04.2024), when this Criminal Original Petition is taken up for hearing, the Inspector of Police, All Women Police Station,



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Paramakudi, who is present before this Court has raised certain objections that the first accused alone is present and the remaining accused are not present.

7.In reply, the learned counsel for the petitioner has produced a copy of the First Information Report and submits that the petitioner alone has been shown as accused and there is no other accused in Crime No.7 of 2023.

8.This Court considered the rival submissions made and also perused the materials placed on record.

9.This case was registered in the month of March 2023. The age of the complainant even at that time of occurrence was 23 years. However, the case has been registered for the offence under Sections 417 and 420 IPC as if on a promise to marry the defacto complainant, the petitioner had a physical relationship with her and refused to marry her. Though there is an averment as against the parents of the petitioner in the First Information Report, the respondent police has not preferred to add them as accused for the past one year. However, the Inspector of Police,



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who has taken charge in the month of February 2023 has raised certain objections with regard to the quashing of the complaint that the other accused are not present. The Investigating Officer, who has taken charge in the month of February 2023 has not conducted any further investigation and has not taken any further steps to include the parents of the petitioner as accused in this case. The fact remains that as on date, the petitioner alone is the accused in Crime No.7 of 2023 and no other accused has been arrayed. More over, the petitioner has married the defacto complainant, they are living together and they are also having a child.

10. In ***Gian Singh vs. State of Punjab [2012 (10) SCC 303]***, the Honourable Supreme Court has issued certain guidelines as follows:

“61. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what



cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim-s family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society.”

11.In ***Narinder Singh v. State of Punjab [2014(6) SCC 466]***, after considering the Gian Singh-s case referred to above, the Hon'ble Supreme Court has issued the guidelines as follows :

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 the 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 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. “



12. In ***Parbatbhai Aahir v. State of Gujarat [AIR 2017 SC 4843]***, the Hon'ble Supreme Court has issued the guidelines as follows :

“(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

(2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) the decision as to whether a complaint or first information report should be quashed on the ground that the



offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and



the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

13. Subsequently, a three judges Bench of the Hon-ble Apex Court in ***State of Madhya Pradesh v. Laxmi Narayan*** reported in (2019) 5 SCC 688, after considering all the above judgments, has held as follows:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;



ii) *such power is not to be exercised in those prosecutions which involved 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;*

iii) *similarly, such power is not to be exercised for the offences under the special statutes like 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;*

iv) *offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (*supra*) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

14. The parties are present. This Court verified the identity of the parties with their Aadhaar cards and also verified the present status. The defacto complainant has expressed her willingness to solve the issue.



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Since the parties have reached settlement, the continuance of legal proceedings would serve no purpose.

15.Considering the nature of complaint and now it is reported that the petitioner and the defacto complainant got married, living together and also having a child, this Court is inclined to quash the proceedings.

16.In view of the subsequent development and following guidelines issued by the Hon'ble Supreme Court (supra), by recording the joint compromise memo, dated 03.04.2024 filed by the parties, this criminal original petition is allowed and the case in Crime No.7 of 2023 pending on the file of the first respondent is hereby quashed. The joint compromise memo, dated 03.04.2024 shall form part and parcel of this order. This Court is not in a position to appreciate the manner in which an objection has been raised by the respondent police in this case.

24.04.2024

NCC : Yes/No
Index : Yes/No
Internet:Yes
vrn



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- 1.The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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Order made in
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