



Crl.O.P.(MD)No.3973 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.3973 of 2024

Suresh

... Petitioner

Vs.

1.State rep.by its
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
(Crime No.403 of 2023)

2.Mareeswari

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to Crime No.403 of 2023 dated 17.11.2023, on the file of the first respondent Police and to quash the same.

For Petitioner : Mr.S.Sathyachidambaram

For R1 : Mr.B.Thanga Aravindh,
Government Advocate(Crl.side)

For R2 : Mr.B.Santhanam Rajesh Kumar

ORDER

The petitioner is an accused in Crime No. 403 of 2023 on the file of the



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first respondent Police Station, which was registered for the offence under Sections 294(b) and 307 IPC. He has filed this petition to quash the proceedings pending against him.

2.The case in Crime No.403 of 2023 was registered based on the complaint given by the second respondent, alleging that, on 17.11.2023, due to family dispute, the petitioner assaulted her with aruval. Hence, the complaint.

3.The petitioners/accused and the defacto complainant are husband and wife and they are present before this Court today. They stated that on the intervention of the elders, they have amicably resolved their issue and they are living together. A compromise memo, dated 28.03.2024 signed by the parties, is also filed before this Court.

4.The learned Government Advocate(Crl.side) appearing for the first respondent submits that pending this petition, the first respondent has completed the investigation in this case and has filed the final report, which was taken on file in PRC.No.3 of 2024 by the learned Judicial Magistrate No.I, Sivakasi.



5.Before entertaining this application on the ground of compromise, this Court has directed the investigation officer in Crime No.403 of 2023 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:

This is to certify that, as directed by this Court in CrI.O.P.(MD)No.3973 of 2024, I personally verified the defacto complainant in Cr.No.403 of 2023/PRC.No.03 of 2024 JM No.I, Sivakasi, for the offence under Sections 294(b) and 307 IPC 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 IPC, 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 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 parties are present. This Court has verified the parties with their Aadhaar cards and also verified the present status. They are husband and wife and they living together. The defacto complainant has expressed her willingness to solve the issue and she does not want to prosecute the case any further. The petitioner also undertook that he will never assault the second respondent in future and he will take care of his wife and children.

8.Though the case was registered for the offence of under Section 307



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IPC, which would fall in the category of heinous and serious offence 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 IPC. The Court has to go by the nature of injury sustained, where the injury is inflicted, whether any vital parts of the body, the nature of weapons used, medical reports, relationship between the parties, etc.,

9.Going by the nature of the injury reported and the relationship of the parties, 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* case (Supra) is inclined to quash the proceedings.

10.Accordingly, this criminal original petition is allowed. The proceedings in Cr.No.403 of 2023 on the file of the first respondent and the proceedings in PRC.No.3 of 2024 on the file of the learned Judicial Magistrate No.I, Sivakasi, are hereby quashed. The joint compromise memo dated 28.03.2024 shall form part and parcel of this order.

05.04.2024

NCC : Yes/No

<https://www.mhc.tn.gov.in/> Index Yes/No



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Internet: Yes
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To

- 1.The Judicial Magistrate No.I,
Sivakasi.
- 2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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