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Crl.O.P.(MD)No.10739 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.10739 of 2022
and
Crl.M.P.(MD)No.6721 of 2022

1.Kazala

2.Sulaihal

... Petitioners/A1 & A2

Vs.

1.State Represented by
The Sub Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.

2.Mohammed Ali Jinnah

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings of the charge sheet in S.T.C.No.279 of 2022 on the file of the learned Judicial Magistrate, Ambasamuthiram and quash the same.

For Petitioners : Mr.A.Balakrishnan

For Respondents : Mr.S.Manikandan
Government Advocate (Crl. side) for R1

Mr.P.P.Alwin Balan



ORDER

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This petition has been filed seeking to quash the proceedings of the charge sheet in S.T.C.No.279 of 2022 on the file of the learned Judicial Magistrate, Ambasamuthiram.

2.The case of the prosecution is that on 09.01.2022, the second respondent attended a marriage in his relative's house at Chinna Pallivasal Street. When he came out, the first petitioner/A1 kicked the vessels kept by his relatives that was used to cook for the marriage party. When the same was questioned by the second respondent, the petitioners abused and assaulted the second respondent. Hence, the second respondent made a complaint before the first respondent Police, based on which, a case in Crime No.8 of 2022 was registered against the petitioners for the offence punishable under Sections 294(b) and 352 of IPC. After completion of investigation, the first respondent Police filed a charge sheet before the learned Judicial Magistrate, Ambasamudaram and the same was taken on file in S.T.C.No.279 of 2022.

3.The learned counsel appearing for the petitioners submitted that the petitioners did not commit any offence as alleged by the prosecution



and the first petitioner, who is aged about 18 years, possesses medical education and the second petitioner, who is aged about 50 years, is the mother of the first petitioner. He would further submit that in order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused person annoyed others. In this case, it is alleged that the petitioners uttered abusive words against the defacto complainant, however, mere utterance of abusive, humiliating or defamative words cannot attract an offence under Section 294(b) IPC. For attracting the offence under Section 352 IPC, there are no materials whatsoever available to prove that the petitioners had never used any force or assault towards the second respondent/defacto complainant. He further submitted that the petitioners also made a complaint against the second respondent and the respondent police conducted investigation and filed a charge sheet before the learned Judicial Magistrate, Ambasamudram in C.C.No.193 of 2023. However, on instructions, he further submitted that they are not interested in pursuing the case before the trial Court in C.C.No.193 of 2023. Hence, this Court may issue a direction to the learned Judicial Magistrate to dismiss the case by invoking the power available under Section 256 of Cr.P.C.



4.The learned counsel for the second respondent/defacto complainant would submit that in view of the stand taken by the petitioners in C.C.No.193 of 2023, he does not want to pursue the present case in S.T.C.No.279 of 2022 against the petitioners. Hence, he has no serious objections for allowing this petition.

5.When such a situation arose in similarly placed matters in Crl.O.P.(MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

“11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes,



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etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, any compromise between the victim and the offender in relation to the offences clubbed with Special Enactment, like Arms Act, the Prevention of Corruption Act, TNPPDL Act, TNPID Act or the offences committed by Public Servants while working in that capacity, etc., cannot provide for any basis for quashing criminal proceedings involving such offences. As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves. This Court feels that there cannot be any compromise in respect of the heinous and serious offences of mental depravity and in that case, the Court should be very slow in accepting the compromise. If the compromise is entertained mechanically by the Court, the accused will have the upper hand. The jurisdiction of this Court may not be allowed to be exploited by the accused, who can well afford to wait for a logical conclusion. The antecedents of the accused have also to be taken into consideration before accepting the memo of compromise and the accused, by means of compromise, cannot try to escape from the clutches of law.

6.Taking note of the judgments referred to supra, considering the nature of allegations and in view of the concerned view expressed by the learned counsel on either side, it is purely a neighbouring dispute between the parties and no useful purpose would be served in keeping the matters pending. Apart from that, the parties are willing to withdraw the case made against each other. Therefore, the entire proceedings in S.T.C.No.279 of 2022, on the file of the learned



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Judicial Magistrate, Ambasamudram, in respect of the petitioners/accused alone, are hereby quashed.

7.Since the petitioners have not pursued the case in C.C.No.193 of 2023, the learned Judicial Magistrate, Ambasamudram, is directed to dismiss the complaint by invoking the powers available under Section 256 of Cr.P.C.

8.Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

14.03.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
Sji

To

- 1.The Judicial Magistrate,
Ambasamuthiram, Tirunelveli.
- 2.The Sub Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

Sji

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