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Crl.O.P.(MD)No.15346 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.15346 of 2022
and
Crl.O.P.(MD).No.10066 of 2022

Kavin

... Petitioner

Vs.

1.The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.
(Crime No.276 of 2020)

2.Delbin

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.27 of 2021 on the file of the learned Judicial Magistrate, Boothapandi and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.S.Vignesh Shanmugam,
for Mr.J.Sulthan Basha,

For R-1 : Mr.P.Kottaichamy,
Government Advocate
(Criminal Side)

For R-2 : Mr.M.Ashok Padmaraj



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.27 of 2021 on the file of the learned Judicial Magistrate, Boothapandi against the petitioner.

2. The case of the prosecution is that due to civil dispute arose between the petitioner and the second respondent, the petitioner along with the other accused persons abused the second respondent by using filthy language and threatened her with dire consequences. Hence, the second respondent made a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.276 of 2020 and the respondent Police, thereafter conducted investigation and on completion of investigation, filed a charge sheet before the learned Judicial Magistrate, Boothapandi and the same was taken on file in C.C.No.27 of 2021 for the offence punishable under Sections 294(b), 506(2) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the other accused in this case are the parents of the petitioner



herein. He would further submit that the matter has been settled between the parties and the petitioner has filed an undertaking affidavit before this Court on behalf of himself as well as the other accused persons. In the undertaking Affidavit, it is stated as follows:

“i) There is a land dispute between my family and the second respondent / defacto complainant. At this juncture, the said criminal case was foisted as against me and my parents (A1 & A3). Subsequently, a civil suit was also filed and the same was pending in O.S.No.244 of 2023 on the file of the Principal Subordinate Judge, Nagercoil, for the same land dispute.

ii). On account of an earlier civil dispute, some wordy quarrel occurred between my family and the defacto complainant / second respondent. As a result of the same, I along with my parents was implicated into the criminal offence. However, I along with my parents do undertake and assure that we will not interfere with the defacto complainant's possession in Survey No. 57/3 and Survey No.57/4 in Esathimangalam Village and I along with my family abide by the outcome of the result in O.S.No.244 of 2023 on the file of the Principal Subordinate Judge, Nagercoil. Further, I undertake that I have no objection to survey and demarcation.”



He would submit that in view of the undertaking given by the petitioner, this Court may quash the proceedings as against all the accused persons including the petitioner herein.

4. The learned counsel appearing for the second respondent on instructions would submit that he has no objection to quash the proceedings against all the accused persons including the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the first respondent has adopted the submission made by the learned counsel appearing for the second respondent.

6. 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:

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“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, 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.

7. Taking note of the judgments referred to supra,

considering the nature of allegations and in view of undertaking given by



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the petitioner, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in C.C.No.27 of 2021 for the offence punishable under Sections 294(b) and 506(1) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 on the file of the learned Judicial Magistrate, Boothapandi are hereby quashed against all the accused persons including the petitioner.

8. Accordingly, this Criminal Original Petition is allowed on the basis of the undertaking affidavit filed by the petitioner. Consequently, connected miscellaneous petition is closed.

14.03.2024

Ncc : Yes /No

Index : Yes/No

Internet : Yes/No

TSG

To

1.The Judicial Magistrate, Boothapandi.

2.The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.

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



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M.DHANDAPANI. J.

TSG

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