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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.15349 of 2022

and

Crl.O.P.(MD).No.10071 of 2022

K.P.Sakthi Arishma @ Harishma

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai District.
(Crime No.256 of 2021)

2.Murugan

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.32 of 2022 on the file of the Additional Mahila Court, Sivagangai and quash the same.

For Petitioner : Mr.P.T.Ramesh Raja

For R1 : Mr.P.Kottaichamy,
Government Advocate
(Criminal Side)

For R-2 : Mr.L.George Paul Anto



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.32 of 2022 on the file of the Additional Mahila Court, Sivagangai, against the petitioner herein.

2. The case of the prosecution is that the petitioner's father, viz., Kailainathan and the second respondent are own brothers. Similarly, the petitioner's mother and the second respondent's wife are own sisters. Due to civil dispute pending between the petitioner and the second respondent, the petitioner along with other accused persons attacked the second respondent and his wife with knife, in which, the second respondent sustained simple injury. Hence, the second respondent made a complaint before the first respondent and the first respondent registered a case in Crime No.256 of 2021 and the respondent Police thereafter conducted investigation and on completion of investigation, they filed a charge sheet before the learned Additional Mahila Judge, Sivagangai and the same was taken on file in C.C.No.32 of 2022 for the offence punishable under Sections 294(b), 324, 506(2) and 323 of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that the petitioner and the second respondent are close relatives. He would further submit that at the time of alleged occurrence, the petitioner was studying in the College at Vellore. He would further submit that the respondent Police has registered a case against the petitioner without considering the real fact. He would further submit that during the pendency of the case, there was a compromise arrived at between the petitioner and the second respondent and hence, he prays for allowing this petition.

4. The learned counsel appearing for the second respondent on instructions would submit that since compromise arrived at between the parties, this Court may quash the proceedings in respect of this petitioner alone.

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

CrI.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, 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



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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 the compromise arrived at between the parties, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Hence, this Court is inclined to quash the proceedings in C.C.No.32 of 2022 on the file of the learned Additional Mahila Judge, Sivagangai, against the petitioner.

8. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties and the proceedings in C.C.No.32 of 2022 on the file of the learned Additional Mahila Judge, Sivagangai stands quashed against the petitioner. Consequently, connected miscellaneous petition is closed.

14.03.2024

Ncc : Yes /No
Index : Yes/No
Internet : Yes/No
TSG



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To

- 1.The Additional Mahila Court, Sivagangai.
- 2.The Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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