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Crl.O.P.(MD)No.15963 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.03.2024**

CORAM:

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

Crl.O.P.(MD) No.15963 of 2022

1.Jobin Jobi @ Jobin Raj

2.Shaji @ Thankaraj

3.Anitha @ Benadik

... Petitioners/Accused Nos.1 to 3

Vs.

1.The State rep.by

The Inspector of Police,
Thallakulam All Women Police Station,
Madurai.
Crime No.26 of 2020.

2.P.Pandiarajan

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in Spl.S.C.No.128 of 2022 on the file of the District and Sessions Court (Mahila), Madurai (Mahalir Neethi Mandram) and quash the same against the petitioners.

For petitioners

: Mr.K.Manavalan

For R-1

: Mr.P.Kottaichamy
Government Advocate (Crl.side)

For R-2

: Mr.P.Manivel



ORDER

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This petition has been filed seeking to quash the proceedings in Spl.S.C.No.128 of 2022 on the file of the learned District and Sessions Judge (Mahila), Madurai (Mahalir Neethi Mandram), insofar as the petitioners are concerned.

2. It is seen that the second respondent lodged a complaint against the petitioners before the first respondent police stating that the first accused kidnapped his daughter with the help of the accused Nos.2 and 3 who are the parents of the first accused and performed child marriage and the same was registered in Crime No.26 of 2020 and after completion of investigation, the first respondent police filed the charge sheet before the trial Court and the same was taken cognizance in Spl.S.C.No.128 of 2022 for the alleged offences punishable under Sections 366 and 344 IPC and Sections 5(1), 6, 16 and 17 of Protection of Child from Sexual Offences Act, 2012 and Sections 9 and 10 of Prohibition of Child Marriage Act, 2006.

3. When the matter was taken up for hearing, a Joint Memo of Compromise has been filed before this Court, which has been duly signed by the petitioners and the second respondent and also by their



respective counsels. The petitioners and the second respondent were also present in person before this Court and they were identified by Ms.B.Kalyani, Special Sub-Inspector of Police, All Women Police Station, Tallakulam.

4.The counsel appearing on either side filed a Joint Memo of Compromise dated 02.09.2022, duly stating that since the petitioners and the second respondent have arrived at an amicable settlement by way of compromise among themselves, the second respondent has no objection for quashing the criminal case against the petitioners herein.

5.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:



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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.

6. Taking note of the judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise dated 02.09.2022, this Court is of the opinion that no useful purpose would be served in keeping the matter pending. Therefore, the entire proceedings



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in Spl.S.C.No.128 of 2022, on the file of the learned District and Sessions Judge (Mahila), Madurai (Mahalir Neethi Mandram), in respect of the petitioners alone, are hereby quashed.

7.Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties. The joint compromise memo dated 02.09.2022 shall form part of this order.

26.03.2024

Index : Yes/No
Internet : Yes/No
ssb

To

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



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M.DHANDAPANI. J.

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