



Crl.O.P.(MD)No.13675 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.13675 of 2024

and

Crl.M.P.(MD)No.8480 of 2024

Perumal Pitchai @ Arunachala Perumal

... Petitioner

Vs.

1.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari,
Crime No.122 of 2019.

2.Muthukumar

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of B.N.S.S., to call for the records relating to the charge sheet in C.C.No. 108 of 2023 on the file of the Judicial Magistrate No.II, Nagercoil and quash the same as against the petitioner herein.

For Petitioners	: Mr.A.Balakrishnan
For R1	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.Side)
For R2	: Mr.K.P.Narayana Kumar

ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.108 of 2023, on the file of the learned Judicial



Crl.O.P.(MD)No.13675 of 2024

Magistrate No.II, Nagercoil, and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that when the defacto complainant was returning to his home, the accused persons had teased him and the first accused is said to have assaulted the defacto complainant with iron rod and caused blood injury on the left eye brow. When the defacto complainant fell down, all the three accused stamped the defacto complainant causing injuries. On hearing his cry, others came and rescued him.

3. There are three accused persons in this case. The petitioner is the second accused. One of the accused persons, namely Vignesh is a juvenile, the case against him got separated.

4. The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves. The petitioner and the defacto complainant are present before this Court. The defacto complainant submitted that the petitioner not attacked him and he was along with the other accused persons. Since the defacto complainant was down, he thought that the



Crl.O.P.(MD)No.13675 of 2024

petitioner might have attacked him. Later he realized that the petitioner not caused any injury to him. Now, both realized their mistakes, reconciled and second respondent agreeing to withdraw the complaint, not willing to pursue the case.

5. A Joint Memo of Compromise filed before this Court signed by the petitioner and the second respondent and their respective counsels. The petitioner and the second respondent present before this Court, identified by Ms.K.Santhi, Vadaseri Police Station, Kanyakumari District, as well as by the learned counsel appearing for the parties. This Court enquired both the parties, satisfied that the parties have come to an amicable settlement between themselves on their own voluntarily without any compulsion.

6. In the instant case, the fight and attack is not of serious in nature. Now the parties have compromised the matter, the High Court has power to quash the complaint even in non compoundable cases, considering the facts and circumstances of the case.

7. The legal position expressed by the Hon'ble Apex Court in the case of ***Gian Singh vs. State of Punjab and another*** reported in (2012)



Crl.O.P.(MD)No.13675 of 2024

10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat*

reported in **(2017) 9 SCC 641** were taken into consideration.

8. In the light of the guidelines issued in the above said judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in C.C.No.108 of 2023 as against the petitioner pending before the Judicial Magistrate No.II, Nagercoil even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.108 of 2023, on the file of the Judicial Magistrate No.II, Nagercoil, is quashed as against the petitioner and the joint compromise memo shall form part and parcel of this order. Consequently, connected miscellaneous petition is closed.

20.11.2024

NCC : Yes / No
Index : Yes / No
ta



Crl.O.P.(MD)No.13675 of 2024

WEB COPY

To

- 1.The Judicial Magistrate No.II, Nagercoil
- 2.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.13675 of 2024

M.NIRMAL KUMAR, J.

ta

Crl.O.P.(MD)No.13675 of 2024

20.11.2024