



Crl.O.P.(MD)No.18095 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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1.Masanamuthu Pandian
2.Vella Durai

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by Deputy Superintendent of Police,
Alangulam Sub Division,
Tenkasi District.

2.State through the Inspector of Police,
Surandai Police Station,
Tenkasi District.

3.Mathesh

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the impugned charge sheet in S.C.No. 147 of 2019 pending on the file of the learned II Additional District and Sessions Judge (Special Cases for PCR), Tirunelveli and quash the same.

For Petitioner : Mr.J.Sivakumar

For R1 & R2 : Mr.K.Sanjai Gandhi

Government Advocate [Crl. Side]

For R3 : Mr.S.Sundara Pandian



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ORDER

This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to call for the records in S.C.No.147 of 2019, pending on the file of the learned II Additional District and Sessions Judge (Special Cases for PCR), Tirunelveli and to quash the same as illegal.

2.The case of the prosecution is that the de-facto complainant is working as a Plumber. On 07.04.2019 at about 08.30 p.m., when the de-facto complainant along with one Sambath Kumar were standing near the Mupidathiamman Temple, the petitioners came there campaigning for parliamentary candidate one Ponnuthai. Since it was felt that de-facto complainant and his friend was obstructing their path, they were questioned, abused calling their caste name and beaten the de-facto complainant and others using iron rod, in which both sustained simple injuries. Hence, the complaint.



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3. The learned counsel appearing for the petitioners would submit that the third respondent lodged a complaint before the first respondent and F.I.R. registered in Crime No.152 of 2019, after investigation, final report filed, the same taken cognizance in S.C.No.147 of 2019, on the file of the learned II Additional District and Sessions Judge (Special Cases for PCR), Tirunelveli, for the offences under Sections 294(b), 324, 506(ii) of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 2015 against the petitioners.

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, for the reason, both petitioners and de-facto complainant and victim all reside in the same place within each others vicinity and during election campaign due to heat of passion wordy abuse and assault took place and it was not a premeditated attack and both parties contributed to the happenings. Now, both realized their mistakes, reconciled and third respondent is agreeing to withdraw the complaint, not willing to pursue the case.



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5. A Joint Memo of Compromise filed and de-facto complainant affidavit filed before this Court, signed by the petitioners and the third respondent and their respective counsels. The petitioners and the third respondent are present before this Court, identified by Mr.Antony Baskar, Special Sub-Inspector of Police, Surandai Police Station, Tenkasi District, as well as by the learned counsels 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 dispute and fight during election campaign, which had died down after the elections which are personal in nature, arising out of a wordy quarrel, leading to exchange of blows and the parties had compromised. Where the parties have compromised the matter, the High Court has to power to quash the complaint for the offences even for offences which are non-compoundable, considering the nature and the circumstances of the incident. In this case, during election campaign, in heat of passion, the incident happened. Both groups live in close proximity, now hatred buried, harmony prevails. In such



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circumstances, it is ideal to quash the proceedings to have harmony and happiness, otherwise bitterness and hatred will continue and harmony cannot prevail. Hence, in the interest of justice, this Court is inclined to quash the proceedings.

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) 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 S.C.No.147 of 2019 as against the petitioners pending before the learned II Additional District and Sessions Judge (Special Cases for PCR), Tirunelveli, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.C.No.147 of 2019, pending before the learned II Additional District and Sessions Judge (Special Cases for PCR),



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Tirunelveli, is quashed as against the petitioners and the joint
compromise memo shall form part and parcel of this order.

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NCC : Yes / No
Index : Yes / No
MR



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To

- 1.The Deputy Superintendent of Police,
Alangulam Sub Division,
Tenkasi District.
- 2.The Inspector of Police,
Surandai Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

MR

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