



Crl.O.P.(MD)No.18296 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.18296 of 2024

and

Crl.M.P.(MD)Nos.11353 and 11354 of 2024

Ishmayil @ Mohamed Ismail

... Petitioner

Vs.

1.The State Rep by its,
Inspector of Police,
Manmelkudi Police Station,
Pudukottai District.
(Crime No.53 of 2022)

2.Satham Usen

3.Ameenammal

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for records pertaining to C.C.No.70 of 2024, on the file of the Judicial Magistrate Court, Manmelkudi, and quash the same.

For Petitioner : Mr.D.S.Haroon Rasheed

For R1 : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal Side)



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For R2 and R3 : Ms.N.Safiya

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ORDER

The Criminal Original Petition has been filed invoking Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to quash C.C.No.70 of 2024, on the file of the Judicial Magistrate Court, Manmelkudi.

2. The case of the prosecution is that the petitioner and the second respondent (de-facto complainant) are neighbours. On 05.03.2022, while the petitioner was filling a pit near his house, the de-facto complainant took some construction material. The petitioner objected to the same, used abusive language against the de-facto complainant, and threatened him with dire consequences. Further, the aunt of the de-facto complainant (third respondent) intervened in the matter and was assaulted by the petitioner. Both the de-facto complainant and his aunt sustained injuries in the incident. Hence, the de-facto complainant has lodged a complaint.



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3. The learned counsel appearing for the petitioner would submit that the second respondent has lodged a complaint before the first respondent and on that basis, F.I.R. came to be registered in Crime No.53 of 2022 and after investigation and filing of the final report, the same was taken cognizance in C.C.No.70 of 2024, on the file of the Judicial Magistrate Court, Manmelkudi, for the offences under Sections 294(b), 323, 324 and 506 (i) I.P.C. against the petitioner.

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.

5. A Joint Memo of Compromise, dated 02.09.2024, has been filed before this Court, which has been signed by the petitioner and the respondents 2 and 3 and also by their respective counsel. The petitioner and the respondents 2 and 3 were also present in person before this Court and they were identified by Mr.N.Dhanuskodi, Special Sub-Inspector of Police, Manmelkudi Police Station, Pudukottai District, as well as by the learned counsels appearing for the parties. This Court also enquired both



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the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. In the instant case, the dispute is of personal in nature and the parties had compromised. Where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Sections 294(b), 323, 324 and 506 (i) I.P.C.

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 C.C.No.70 of 2024 as against the petitioner pending before the Judicial Magistrate Court, Manmelkudi, even though, the offences involved are not compoundable in nature.



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9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.70 of 2024, on the file of the Judicial Magistrate Court, Manmelkudi, is quashed as against the petitioner and the joint compromise memo, dated 02.09.2024, shall form part and parcel of this order. Consequently, connected Miscellaneous Petitions are closed.

05.12.2024

NCC : Yes / No

Index : Yes / No

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To

- 1.The Judicial Magistrate,
Manmelkudi.
- 2.The Inspector of Police,
Manmelkudi Police Station,
Pudukottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
Crl.O.P.(MD)No.18296 of 2024

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