



CrI.O.P.(MD)No.17435 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.OP(MD) No.17435 of 2023 and
CrI.MP(MD) Nos.13845 and 13844 of 2023

- 1.Viswanathan
- 2.Ganesan
- 3.Abitha Gujalambal
- 4.Shanmugaraja
- 5.Sathya

... Petitioners/Accused 1 to 5

Vs

- 1.The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City.

- 2.Subhashini

...Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings of CC No.1110 of 2023 on the file of the Additional Mahila Court (Judicial Magistrate), Madurai District and quash the same.

For Petitioners

For R1

For R2

: Mr.P.Kannan

: Mr.M.Sakthi Kumar

Government Advocate (CrI.side)

: Mr.N.S.Karthikeyan



Crl.O.P.(MD)No.17435 of 2023

ORDER

WEB COPY

The petitioners, who are the accused in Crime No.46 of 2022, on the file of the first respondent Police, for the offence under Sections 406 and 498-A of IPC have moved this Criminal Original Petition to quash the proceedings in CC No.1110 of 2023 pending on the file of the Additional Mahila Court (Judicial Magistrate), Madurai District as against them. They have filed this petition to quash the proceedings pending as against them.

2.The petitioners/accused and the defacto complainant are relatives. The first petitioner and the defacto complainant are the husband and wife. The above case has been registered based on a complaint lodged by the defacto complainant on 15.07.2022 that there was a matrimonial dispute and the petitioners harassed the defacto complainant by demanding more dowry.

3.The Defacto complainant, who is present before this Court submits that the seedhana articles have been returned to her by the petitioners and mutual divorce has also been granted by the trial Court in

<https://www.mhc.tn.gov.in/judis> HMOP No.3 of 2024 on 22.01.2024. Therefore, she is not willing to



Crl.O.P.(MD)No.17435 of 2023

prosecute the case in CC No.1110 of 2023, which is pending before the Additional Mahila Court (Judicial Magistrate), Madurai District. A Joint compromise memo, dated 08.02.2024 signed by the respective parties have also been filed before this Court to that effect.

4.Before entertaining this application on the ground of compromise, this Court has also directed the investigating officer namely the Sub Inspector of Police, All Women Police Station, Thallakulam in Crime No.46 of 2022 to personally verify with the defacto complainant and to ascertain whether the compromise is voluntary one, without any threat or coercion. The investigating officer after due verification has filed a report as under:

This is to certify that, as directed by this Court in Crl.O.P.(MD)No.17435 of 2023, I personally verified the defacto complainant in Cr.No.46 of 2022, registered for the offence under Sections 406 and 498A of IPC and ascertained that the compromise arrived between the accused and the defacto complainant/victim in the above case is voluntary, without any threat or coercion.

I further clarify that there are no other victims in this case, except the victim appeared before this Hon'ble Court today.



WEB COPY

5. The Honourable Supreme Court, while dealing with the compromise quash of a case registered under Section 498-A IPC, reported in **2008 AIR SCW 6814**, in ***Dr.Aravind Barsaul etc., Vs State of Madhya Pradesh and another***, has held as follows:-

“10.We have heard learned counsel for the parties at length. The parties have compromised and the complainant Smt.Sadhna Madhnawat categorically submitted that she does not want to prosecute the appellants. Even otherwise also, in the peculiar facts and circumstances of the case and in the interest of justice, in our opinion, continuation of criminal proceedings would be an abuse of the process of law. We, in exercise of our power under Article 142 of the Constitution, deem it proper to quash the criminal proceedings pending against the appellants emanating from the FIR lodged under Section 498-A IPC. The appeal is accordingly disposed of.”

6.The Hon'ble Supreme Court in the case of ***Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath***, reported in **2017 9 SCC 641** and in case of ***The State of Madhya Pradesh Vs. Dhruv Gurjar and Another*** reported in **(2019) 2 MLJ Crl 10**, has given sufficient guidelines that must be taken into consideration by this Court while



Crl.O.P.(MD)No.17435 of 2023

exercising its jurisdiction under Section 482 of Cr.P.C, to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine if the crime in question is purely individual in nature or a crime against the society with overriding public interest. It has been repeatedly cautioned that offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

7.The parties are present. This Court verified the identity of the parties with their Aadhaar cards and also verified the present status. The defacto complainant has expressed her willingness to solve the issue. The conflict is between the private individuals and it is not affecting the society at large.

8.In the present case, the offences in question are purely individual/personal in nature and the conflict is between the private individuals and it is not affecting the society at large. It involves the petitioners, the second respondent and their respective families only. The defacto complainant herself has categorically submitted that she does not want to prosecute the case any further, in view of the compromise



Crl.O.P.(MD)No.17435 of 2023

arrived at between them. Even otherwise, quashing this case will not have any overriding public interest. Under such circumstances, no useful purpose will be served in keeping the case in C.C.No.1110 of 2023 pending, even though, some of the offences involved are not compoundable in nature. On the other hand, keeping the proceedings pending will only swell the mental agony of the petitioners, second respondent and their families.

9.In view of the above development and following the ratio laid down by the Honourable Supreme Court, this Court is inclined to quash the proceedings, though certain offence are non-compoundable, in order to avoid further conflict between the parties.

10.In view of the same, by recording the joint compromise memo filed by the parties, this criminal original petition is allowed and the case in CC No.1110 of 2023 on the file of the Additional Mahila Court (Judicial Magistrate), Madurai is hereby quashed. The joint compromise memo shall form part and parcel of this order. Consequently, connected Miscellaneous Petitions are closed.



Crl.O.P.(MD)No.17435 of 2023

11.However, considering the energy and time spent by the respondent police at the time of investigation, the petitioners are directed to pay a sum of Rs.10,000/- each to the respondent police station.

24.04.2024

NCC : Yes/No
Index : Yes/No
vrn

To

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



WEB COPY



CrI.O.P.(MD)No.17435 of 2023

B.PUGALENDHI,J

vrn

Order made in
CrI.OP(MD) No.17435 of 2023 and
CrI.MP(MD) Nos.13845 and 13844 of 2023

24.04.2024