



Crl.O.P.(MD)No.18602 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.18602 of 2024

and

Crl.M.P.(MD)Nos.11558 and 11560 of 2024

Sivathanu

... Petitioner

Vs.

State Rep by,

1.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
(Crime No.15 of 2019)

2.Mathi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in S.C.No.197 of 2022, on the file of the I Additional Sub Court, Nagercoil, and quash the same as illegal.

For Petitioner : Mr.M.Nadheer Nazar

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

For R2 : Mr.K.Ganesamoorthi



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ORDER

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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.197 of 2022, on the file of the I Additional Sub Court, Nagercoil, and quash the same as illegal.

2. The case of the prosecution is that on 09.01.2019, at about 10:45 p.m., while the second respondent was returning home from his office, he stopped his two-wheeler at the NKR petrol bunk, located behind Azad Hotel in Nagercoil, where the petitioner (A1) and A2 were employed, to refuel his two-wheeler. When the second respondent requested petrol for Rs.100/-, he paid the money, but the petrol was not dispensed. When the second respondent questioned the petitioner (A1) and A2, they abused the second respondent using filthy language. Afterward, the petitioner (A1) picked up an iron rod that was lying nearby and attacked the second respondent on the left side of the head, causing a grievous injury and then, A2 Natesan picked up a wooden log and attacked the second respondent's right shoulder, causing grievous hurt. The second respondent fell to the ground, whereupon both the



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petitioner (A1) and A2 Natesan kicked him in the abdomen and chest, causing internal injuries. Further, they criminally intimidated the second respondent. As a result, the second respondent lodged a complaint.

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.15 of 2019 and after investigation and filing of the final report, the same was taken cognizance in S.C.No.197 of 2022, on the file of the I Additional Sub Court, Nagercoil, for the offences under Sections 294(b), 307, 323, 324 and 506(ii) I.P.C. against the petitioner(A1) and A2.

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 has been filed before this Court which have been signed by the petitioner and the second respondent and also by their respective counsels. The petitioner and the second



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respondent are present before this Court and and they were identified by Mr.R.Sasikumar, Special Sub-Inspector of Police, Vadasery Police Station, Kanyakumari District, as well as by the learned counsels appearing for the parties. This Court also enquired both 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), 307, 323, 324 and 506(ii) 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 S.C.No.197 of 2022 as against the petitioner pending



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before the I Additional Sub Court, Nagercoil, 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.197 of 2022, on the file of the I Additional Sub Court, Nagercoil, is quashed as against the petitioner and the joint compromise memo shall form part and parcel of this order. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

11.11.2024

To

- 1.The I Additional Sub Judge,
Nagercoil.
- 2.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

smn2

Order made in
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Dated: 11.11.2024