



Crl.O.P.(MD)No.17634 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.17634 of 2024

and

Crl.M.P.(MD)Nos.10957 and 10958 of 2024

Mathi

... Petitioner

Vs.

State Rep by,

1.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
(Crime No.16 of 2019)

2.Sivathanu

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the impugned proceedings of the charge sheet in C.C.No.687 of 2022, on the file of the Judicial Magistrate Court No.II, Nagercoil, and quash the same as illegal.

For Petitioner : Mr.K.Ganesamoorthi

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

For R2 : Mr.M.Nadheer Nazar



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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 C.C.No.687 of 2022, on the file of the Judicial Magistrate Court No.II, Nagercoil, and quash the same as illegal.

2. The case of the prosecution is that the second respondent was employed at N.K.R. Petrol Bunk. On 09.01.2019, the petitioner visited the petrol bunk and requested the second respondent to refuel his two-wheeler for Rs.100/-. After the refueling was completed, the second respondent asked for payment. In response, the petitioner verbally abused the second respondent using filthy language, physically assaulted him on the left cheek and right hand, and caused grievous hurt. Furthermore, upon witnessing the incident, one Nadesan, who was also working at the same petrol bunk, came to the second respondent's aid, but was also assaulted by the petitioner, sustaining bleeding injuries. As a result, the second respondent 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.16 of 2019 and after investigation and filing of the final report, the same was taken cognizance in C.C.No.687 of 2022, on the file of the Judicial Magistrate Court No.II, Nagercoil, for the offences under Sections 325 and 294(b) 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 08.11.2024, 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 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



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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 325 and 294(b) 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.687 of 2022 as against the petitioner pending before the Judicial Magistrate Court No.II, Nagercoil, 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.687 of 2022, on the file of the Judicial Magistrate Court No.II, Nagercoil, is quashed as against the petitioner and the joint compromise memo, dated 08.11.2024, 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 Judicial Magistrate No.II,
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.

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Order made in
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Dated: 11.11.2024