



Crl.O.P.(MD)No.20126 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20126 of 2024

1. Ibanson

2. Divakaran

... Petitioners

Vs

1. The State of Tamil Nadu,
Rep By The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Tirunelveli District,
Cr.No.354 of 2020..

2. Anbuthurai

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, in connection with C.C.No.124 of 2023 on the file of the learned District Munsif cum District Munsif cum Judicial Magistrate, Radhapuram, Tirunelveli District in relation to Cr.No.354 of 2020 on the file of the Inspector of Police, Koodankulam police Station, Tirunelveli District and quash the same.

For Petitioners : Mr. L.Julier Caroline



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

For R2 : Mr.S.Palanivelayutham

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 C.C.No.124 of 2023, on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram, Tirunelveli District, and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that on account of property dispute, on 18.12.2020 at about 11.00p.m., the accused persons criminally trespassed into the house of the defacto complainant by breaking the compound wall and abused him with filthy language and caused life threat. Based on the complaint given by the defacto complaint/R2, the said case has been registered against the accused persons.



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3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent and F.I.R. registered in Crime No.354 of 2020, after investigation, final report filed, the same taken cognizance in C.C.No. 124 of 2023, on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram, Tirunelveli District, for the offences under Sections 447, 294(b), 506(i) IPC, 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, sudden wordy quarrel lead to exchange of blows, it was not a premeditated attack and both parties contributed to the happenings. Now, both realized their mistakes, reconciled and second respondent agreeing to withdraw the complaint, not willing to pursue the case.

5. A Joint Memo of Compromise filed before this Court signed by the petitioners and the second respondent and their respective counsels. The petitioners and the second respondent present before this



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Court, identified by the Sub Inspector of Police, Koodankulam Police Station, 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 occurrence took place between the relatives on account of property dispute 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 447, 294(b), 506(i) IPC.

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



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in keeping the proceedings in C.C.No.124 of 2023 as against the petitioners pending before the learned District Munsif cum Judicial Magistrate, Radhapuram, Tirunelveli District, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.124 of 2023, on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram, Tirunelveli District, is quashed as against the petitioners and the joint compromise memo shall form part and parcel of this order.

NCC : Yes / No

25.11.2024

Index : Yes / No

PNM

To

1.The District Munsif cum Judicial Magistrate, Radhapuram, Tirunelveli District

2. The Inspector of Police,
Koodankulam Police Station,
Koodankulam, Tirunelvlei District.
Crime No.354 of 2020

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.NIRMAL KUMAR, J.

PNM

Order in
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