



Crl.O.P.(MD)No.19831 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **21.11.2024**

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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and

Crl.O.P.(MD)No.12219 & 12220 of 2024

- 1.Soundhar Rajan
- 2.Puthiran
- 3.Thilak
- 4.Johnson
- 5.Varghese
- 6.Prasanth
- 7.Daniel
- 8.Ajay
- 9.Michael
- 10.Manoj
- 11.Vinoth
- 12.Leon
- 13.Milo
- 14.Hercules
- 15.Antony Siluvai
- 16.Jesu Anthony
- 17.Rathinam
- 18.Reknes
- 19.Kenny
- 20.Gowtham
- 21.Ajay
- 22.Shajan
- 23.Inipant
- 24.Marshall
- 25.Dony
- 26.Rewarld
- 27.Thomas



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28.Mathiyalagan
29.Mickale
30.Vino
31.Sam George
32.Rex
33.Vinoth
34.Alex Kojin
35.Sahaya Dickson

... Petitioners

Vs.

1.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
(Crime No.134 of 2021)

2.Silvester

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records and quash the final report in S.C.No.288 of 2022 on the file of the II Additional District Court, Kanyakumari at Nagercoil registered under Crime No. 134 of 2021 dated 30.03.2021 on the file of the 1st respondent as against the petitioners.

For Petitioners	: Mr.I.Robert Chandra Kumar
For R1	: Mr.K.Sanjai Gandhi Government Advocate (Crl. Side)
For R2	: Mr.A.Arun Ramnath



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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, to quash the charge sheet in S.C.No.288 of 2022 on the file of the II Additional District Court, Kanyakumari at Nagercoil.

2. The case of the prosecution is that on 30.03.2021, when the defacto complainant was standing in front of parish office, due to previous enmity and jealousy, the accused spoke him in abusive terms and assaulted him with their arms and legs. The fourth petitioner also attacked him with knife. On hearing the sound of the defacto complainant, his brother and cousin came there. They were also attacked with pipes and iron rods. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent and an FIR has been registered in Crime No.134 of 2021. After investigation, a final report has been filed and the same was taken



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cognizance in S.C.No.288 of 2022 on the file of the II Additional District Court, Kanyakumari at Nagercoil, for the offences under Sections 147, 148, 294(b), 323, 324, 506(ii), 307 & 149 of I.P.C., against the petitioners.

4. The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromised the dispute amicably among themselves, for the reason that sudden wordy quarrel led to exchange of blows, it was not a premeditated attack and both parties contributed to the happenings. Further, there is a counter case in Crime No.133 of 2021 filed by the accused persons, which has also been culminated into S.C.No.149 of 2022. However, the witnesses had not supported the case of the prosecution in this case and the case ended in acquittal. Moreover, though the injuries sustained by the defacto complainant are said to be grievous in nature, it is found that it is not on the vital part. Now, both realized their mistakes, reconciled and second respondent is agreeing to withdraw the complaint and is not willing to pursue the case.



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5. A Joint Memo of Compromise dated 20.03.2024 is filed before this Court signed by the petitioners and the second respondent and their respective counsels. The petitioners and the second respondent are present before this Court, identified by Mr.S.Suresh, Special Sub Inspector of Police, (2822) (Contact : 94981 04963), Kanyakumari Police Station, Kanyakumari, as well as by the learned counsels appearing for the parties. Apart from the defacto complainant, two other victims namely, Godwin, S/o.Lawrence and Julies, S/o.John Jebastin appeared before the respondent police and have come to an amicable settlement between the parties. This Court enquired both the parties and 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 dispute is of personal in nature arisen out of previous enmity and the sudden quarrel led to exchange of blows and the parties had compromised. When the parties have compromised the matter, the High Court has the power to quash the complaint for the offence under Sections 147, 148, 294(b), 323, 324, 506(ii), 307 & 149 of I.P.C.



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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*** was 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.288 of 2022 as against the petitioners pending before the II Additional District Court, Kanyakumari at 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.288 of 2022, on the file of the II Additional District Court, Kanyakumari at Nagercoil, is quashed as against the petitioners and the joint compromise memo dated 20.03.2024 shall form part and parcel of this order. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No

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To:-

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- 1.The II Additional District Court, Kanyakumari at Nagercoil.
- 2.The Inspector of Police,
Kanyakumari 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
Crl.O.P.(MD)No.19831 of 2024

Dated:
21.11.2024