



Crl.O.P.(MD)No.20307 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20307 of 2024

1.Vijay Kanna

2.Gopinath

... Petitioners

Vs.

1.State of Tamil Nadu,
The Inspector of Police,
Thideer Nagar Police Station,
Madurai District.
Crime No.163 of 2024

2.CHokkalingam

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the case registered in impugned charge sheet in CC.No.1254 of 2024 on the file of the Judicial Magistrate V, Madurai, in connection with Crime No.163 of 2024 on the file of the first respondent police an quash the same as illegal.

For Petitioner	: Mr.B.Arun
For R1	: Mr.K.Sanjai Gandhi Government Advocate (Crl. Side)
For R2	: Mr.S.Pradeep



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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 CC.No.1254 of 2024 on the file of the Judicial Magistrate V, Madurai and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that the defacto complainant is the retired from Army service. The petitioners demanded army liquor from the defacto complainant, the same was refused by the petitioners and hence, the petitioners abused using filthy language and assaulted the defacto complainant. 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 F.I.R. registered in Crime No.163 of 2024, after investigation, final report filed, the same taken cognizance in C.C.No.1254 of 2024, on the file of the Judicial Magistrate No.V, Madurai, for the offences under Sections 341, 294(b), 323, 506(2) and 326 of I.P.C., against the petitioners.



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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. 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 Court, identified by Mr.N.Kumar, SSI of Police, CIPS, MADurai District, 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, where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Sections 341, 294(b), 323, 324 and 506(2) 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*** 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 CC.No.1254 of 2024 as against the petitioners on the file of the Judicial Magistrate V, Madurai, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in CC.No.1254 of 2024 on the file of the Judicial Magistrate V, Madurai, is quashed as against the petitioners and the joint compromise memo shall form part and parcel of this order.

NCC : Yes / No
Index : Yes / No
Rmk

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To
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- 1.The Judicial Magistrate V, Madurai.
- 2.The Inspector of Police,
Thideer Nagar Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Rmk

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