



Crl.O.P.(MD) No.21034 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.O.P (MD) No.21034 of 2023

and

CRL.O.P.(MD)No.16492 of 2023

1. Pushparaj,

2. Mathiraja,

3. Thirumavalavan,

4. Ilaiyaraja,

5. Sinthanaiselvan,

6. Kalvikarasi

... Petitioners

Vs

1. The Inspector of Police,
Vadakadu Police Station, Vadakadu,
Pudukkottai District.
(Cr.No.326/2020)

2. Elanthamizhan

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in Crime No.326 of 2020 on the file of the 1st respondent and quash the same.

For Petitioners : Mr.H.Jahir Hussain,
For R1 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)
For R2 : Mr.H,Sahul Hazeed

ORDER

The petitioners are accused in Crime No.326 of 2020 on the file of the first respondent Police Station, which was registered for the offence under Sections 147, 148, 324, 323, 506(ii) and 269 of IPC r/w. Section 51(b) of the Disaster Management Act. They have filed this petition to quash the proceedings pending against them.

2.The case in Crime No.326 of 2020 was registered based on the complaint given by the second respondent alleging that the meeting has



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been conducted by the petitioners on 21.05.2020.

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3.The petitioners and the defacto complainant are present before this Court and they have stated that on the intervention of the elders, they have amicably resolved their issue. A compromise memo, dated 26.06.2024 signed by the parties, is also filed before this Court.

4.Before entertaining this application on the ground of compromise, this Court has directed the investigation officer in Crime No.326 of 2020 to personally verify with the defacto complainant and to ascertain whether the compromise is a voluntary one, without any threat or coercion. The investigating officer, after due verification, has filed a report as under:

This is to certify that, as directed by this Court in Crl.O.P.(MD)No.21034 of 2023, I personally verified the defacto complainant in Cr.No.326 of 2020, for the offence under Sections 153 IPC 147, 148, 324, 323, 506(ii) and 269 of IPC r/w. Section 51(b) of the Disaster Management Act and ascertained that the compromise arrived between the accused and the defacto complainant/victim in the above case is voluntary, without any threat or coercion.



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I further clarify that there are no other victims in this case, except the victims appeared before this Hon'ble Court today.

5.The Hon'ble Supreme Court in the case of ***Shiji @ Pappu v. Radhika reported in (2011) 10 SCC 705***, held as follows:

“[13]. It is manifest that simply because an offence is not compoundable under Section 320 Indian Penal Code is by itself no reason for the High Court to refuse exercise of its power under Section 482 Criminal Procedure Code That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Criminal Procedure Code on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Criminal Procedure Code are not for



that purpose controlled by Section 320 Criminal Procedure Code Having said so, we must hasten to add that the plenitude of the power under Section 482 Criminal Procedure Code by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.

6.The Hon'ble Supreme Court in the case of ***Parbatbhai Aahir v State of Gujarat*** reported in ***(2017) 9 SCC 641***, laid down the broad principles for quashing of FIR, which are reproduced as follows:



[16]. The broad principles which emerge from the precedents on the subject, may be summarized in the following propositions:

16 (i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16 (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non- compoundable.

16 (iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16 (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of



principles can be formulated;

16 (vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

*16 (vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash *Vijender Gupta And Ors vs State Of Haryana And Another* on 18 July, 2022 Indian Kanoon - <http://indiankanoon.org/doc/159071176/> 4 is concerned;*

16 (viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16 (ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and



16 (x) *There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.*

7.The Hon'ble Supreme Court in the case of ***Ramgopal v. The State of Madhya Pradesh***, in Cr.A 1489 of 2012, held as follows:

[11]. True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C.



The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

[12]. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non- compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

[13]. It appears to us those criminal proceedings involving non- heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck postconviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature



*and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh &Ors. vs. State of Punjab &Ors.* [(2014) 6 SCC 466, and *Laxmi Narayan case*, reported in [(2019) 5 SCC 688.*

[14]. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed between two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."



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8.In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

9.The parties are present. This Court has verified the parties with their Aadhaar cards and also verified the present status. The defacto complainant has expressed his willingness to solve the issue. Since the parties have reached settlement, the continuance of legal proceedings would serve no purpose.

10.In view of the above development and following the guidelines issued by the Hon'ble Supreme Court referred supra, this Court is inclined to quash the First Information Report in Crime No.326 of 2020 on the file of the first respondent Police though certain offences are non-compoundable in order to avoid further conflict between the parties.

11.Accordingly, by recording the Compromise Memo dated



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26.06.2024, this criminal original petition is allowed and the case in Crime No.326 of 2020 pending on the file of the first respondent is hereby quashed. The Joint Compromise Memo dated 26.06.2024 shall form part and parcel of this order. Consequently, connected miscellaneous petition is closed.

15.07.2024

NCC : Yes/No
Internet: Yes/No
Index: Yes/No

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To

1. The Inspector of Police,
Vadakadu Police Station, Vadakadu,
Pudukkottai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

jbr

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