



Crl.O.P.(MD)No.21198 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21198 of 2024

and

Crl.M.P.(MD)Nos.13152 & 13153 of 2024

Ajikumar

... Petitioner

Vs.

1.State Rep. by,
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
(Cr.No.476/2021)

2.Bindu Kumari

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in S.T.C.No.1320 of 2023, on the file of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District and quash the same.

For Petitioner : Mr.B.Micheal Sebastin

For R1 : Mr.K.Sanjai Gandhi

Government Advocate (Crl., Side)

For R2 : Mr.S.Pragadeeswaran



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ORDER

WEB COPY This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to call for the records in S.T.C.No.1320 of 2023, on the file of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District and quash the same.

2.The case of the prosecution is that the petitioner and the 2nd respondent / defacto complainant are the husband and wife. The petitioner used derogatory language and attacked the defacto complainant. Hence, the complaint has been registered against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the 2nd respondent lodged a complaint before the 1st respondent and F.I.R., was registered in Crime No.80 of 2023. After investigation, final report has been filed and the same is taken cognizance in S.T.C.No.1320 of 2023 on the file of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District for the offences under Sections 294(b) and 323 IPC 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,



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for the reason that the issue between themselves has been settled out of Court and now, they are living together and continuing their matrimonial life happily.

Therefore, the 2nd respondent is agreeing to withdraw the case and she is not willing to pursue the matter.

5.A Joint Memo of Compromise filed before this Court signed by the petitioner and the 2nd respondent and their respective counsels. The petitioner and the 2nd respondent are present before this Court and they are identified by Mr.R.Jeyakumar, Special Sub Inspector of Police, Kottar Police Station, Kanyakumari District (Contact: 94981 97165) as well as by the learned counsels appearing for 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 and when the parties have compromised the matter, the High Court has power to quash the complaint for the offences under Sections 294(b) and 323 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



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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 S.T.C.No.1320 of 2023 as against the petitioner pending before the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District, even though the offences involved are not compoundable in nature.

9.Accordingly, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.1320 of 2023, on the file of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District, is quashed as against the petitioner and the joint compromise memo shall form part and parcel of this order. Consequently, connected miscellaneous petitions are closed.

04.12.2024

NCC : Yes / No

Index : Yes / No

Yuva

To

1.The Judicial Magistrate No.II,
Nagercoil, Kanyakumari District.



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2.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

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



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M.NIRMAL KUMAR, J.

Yuva

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