



Crl.O.P.(MD)No.22342 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22342 of 2024

Elango @ Elangovan

... Petitioner / Sole Accused

Vs.

1.State of Tamil Nadu,
Rep by The Inspector of Police,
Velayuthapattinam Police Station,
Sivagangai District.
(In Crime No.19/2024)

... Respondent /
Complainant

2.Nofil abir @ Nowfil Jafeer

... 2nd Respondent /
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned Charge Sheet in C.C.No.128 of 2024, pending on the file of the learned Judicial Magistrate Court, Devakottai, Sivagangai District and to quash the same.

For Petitioner : Mr.T.Veerakumar

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

For R2 : Mr.SMA.Jinnah



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ORDER

The petitioner / sole accused in Crime No.19 of 2024, which has culminated into C.C.No.128 of 2024, on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District, facing trial for the offence under Sections 341, 294(b), 336 and 506(i) IPC., has filed this quash application.

2. The case of the prosecution is that on 26.05.2024, at about 10.30 a.m., due to previous enmity, when the defacto complaint riding in his bike to attend his uncle's daughter's marriage, at that time, the petitioner followed the defacto complainant and when the defacto complainant stopped his bike, petitioner picked up a stone and pelted on the defacto complainant, which hit on the right side of the head of defacto complainant, as a result of which, he sustained injuries. The defacto complainant informed the same to his uncle, thereafter, in an ambulance he was taken to the hospital, information was sent to the respondent police from the hospital, who come there, recorded the statement of the defacto complainant, and registered the case. On registration of FIR, investigation carried out now after completion of investigation field charge sheet against the petitioner listing 11 witnesses.



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3. Mr.T.Veerakumar, the learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case, since there was some dispute with the petitioner's family and the Panchayat with regard to laying of the pipeline in their land which has been magnified and a false complaint has been lodged against the petitioner.

4. Mr.SMA.Jinnah, the learned counsel appearing for the defacto complainant would that there was some dispute in laying of the pipeline between the defacto complainant and the petitioner. The defacto complainant's family were administrating the Panchayat and the Panchayat insisted that the damaged pipeline in the petitioner's property to be restored thereby providing drinking water to the marginalized people, who are living in the village. The defacto complainant and the family members objecting for the water to be drawn through their land to the marginalized people and damaged the pipeline. Since the defacto complainant and family members were supporting the deprived people, the petitioner's family packed up quarrel and attacked the defacto complainant.



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5. Mr.K.Sanjai Gandhi, the learned Government Advocate (crl.side) for the 1st respondent Police would submit that on the complaint of the defacto complainant, who taken treatment as inpatient in Government Hospital, a case has been registered. Thereafter, during investigation witnesses in the scene of occurrence were recorded, which confirmed the attack made by the petitioner. Doctor also confirmed the injuries sustained. On completion of investigation, now charge sheet filed and the case is pending trial in C.C.No.128 of 2024, on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District.

6. The petitioner assaulted the defacto complainant and now the defacto complainant considering the petitioner's explanation and all residing in the same village, further now the petitioner and his family members not objecting for drawing of the water pipeline for the marginalized people in their land, the issue got resolved. 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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7. A Joint Memo of Compromise, dated 18.12.2024, has been filed before this Court, which has been signed by the petitioner and the defacto complainant and also by their respective counsel. The petitioner and the defacto complainant were also present in person before this Court and they were identified by the 1st respondent Police, as well as by the learned counsels appearing for the parties. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

8. In the instant case, the dispute is of personal in nature and the parties had compromised. Where the parties have compromised the matter, the High Court has to power to quash the complaint for the offences under Sections 341, 294(b), 336 and 506(i) IPC.

9. 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.



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10. 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 C.C.No.128 of 2024 as against the petitioner pending before the Judicial Magistrate Court, Devakottai, even though, the offences involved are not compoundable in nature.

11. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.128 of 2024, on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District, is quashed as against the petitioner and the joint compromise memo, dated 18.12.2024, shall form part and parcel of this order.

05.12.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Judicial Magistrate,
Devakottai,
Sivagangai District
- 2.The Inspector of Police,
Velayuthapattinam Police Station,
Sivagangai 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.22342 of 2024

Dated: 20.12.2024