



Crl.O.P.No.5752 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5752 of 2025

1. Pandurangan

2. Govindhammal

... Petitioners

Vs

1. The State Rep.By,
The Inspector of Police,
All Women Police Station,
Cheyyar,
Tiruvannamalai District.

2. Samundeeswari

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in CC.No.90 of 2010 on the file of the learned Judicial Magistrate, Cheyyar, and quash the Final Report and consequently set aside the Judgment in CC.No.90/2010 dated 20.02.2019 passed by the learned Judicial Magistrate, Cheyyar.

For Petitioners : Mr.B.Jawahar

For R1 : Mr.K.M.D.Muhilan

Government Advocate (Crl.side)



Crl.O.P.No.5752 of 2025

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the proceedings in CC.No.90 of 2010 on the file of the learned Judicial Magistrate, Cheyyar.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the first respondent and perused the materials placed on record.

3. The petitioners were convicted in C.C.No.90 of 2010, on the file of the Judicial Magistrate, Cheyyar for the offences punishable under Section 498A read with Section 109 IPC and sentenced them to undergo one year simple imprisonment and to pay a sum of Rs.1000/- in default to undergo one month simple imprisonment by the Judgment dated 20.02.2019. Aggrieved by the same, the petitioners preferred appeal and it is pending in Crl.A.No.15 of 2019 on the file of the Principal District and Sessions Court, Tiruvannamalai. Pending appeal, the first petitioner and the second respondent got reunion and both are living together happily. To that extent the first petitioner as well as the second respondent filed affidavits before this Court.



4. The relevant portion of the affidavit filed by the second

respondent is as follows:-

“ 3. I submit that the 1st petitioner herein is my husband and the 2nd petitioner is my mother in law. I submit that our marriage was solemnized in the year 1999, out of the wed lock we gave birth of 2 male child and one female child, all are become major now.

4. I submit that there were some misunderstanding between me and the petitioners, in our matrimonial life. Hence I lodged a complaint before the 1st respondent, and the same was registered as Crime No:12/2009, U/s 498(A), 494(A) r/w 109 I.P.C. The 1st respondent filed charge sheet against the petitioners.

5. I submit that the same was taken on file as C.C.No:90/2010, on the file of Judicial Magistrate Court, Cheyyar. The learned Judicial Magistrate by judgement dated 20.02.2019, convicted petitioners U/s 498(A) r/w 109 I.P.C. and sentenced to 1 year Simple Imprisonment and also fine of Rs.1000/- in default to undergo one month Simple imprisonment.

6. I submit that the petitioners have filed appeal as against the above said judgement, before the Principal District & Sessions Court, Tiruvannamalai in Crl.A.No: 15/2019 and the same is pending.

7. I submit that pending the above appeal, my family well wishers advised me as well as the 1st petitioner for reunion, for the welfare of the family and also for the welfare of our sons and daughter.

8. I submit that we realized our mistake and misunderstanding in our matrimonial life, we forgive and forget all the past evil and started to live together. Now we both of us are residing under one roof and also leading the matrimonial life



WEB COPY

happily. I submit that I am not interested to continue the litigation, and willing to compound the offence/withdraw the complaint.

9. I submit that the compromise between me and the petitioners are happened on our Free will and wish.

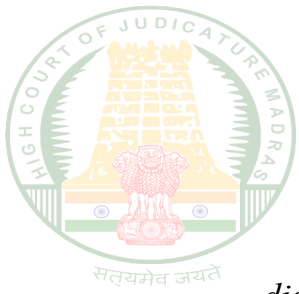
5. The offence under Section 498A of IPC is non-compoundable offence and as such, the petitioners cannot be permitted to compound the offence. However, this Court can exercise the power under Section 528 of BNSS, 2023. Further, there is no doubt that the object of introducing chapter XX-A of IPC containing Section 498A was to prevent torture to woman by her husband or by the relatives of the husband. It has been added with a view to punish her husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against the interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of chapter XX-A of IPC. This Court can very well exercise its inherent powers to quash the proceedings. Section 320 of Cr.P.C does not limit or affect the powers of this Court under Section 528 of BNSS, 2023.



WEB COPY

6. By considering the nature of offence and the fact that the parties have mechanically settled their dispute and the victim has willingly entered into settlement, this Court can quash the proceedings in exercise of their respective constitutional/inherent powers if the offence are not compound. Further, criminal proceedings involving non-heinous offences or where the offences are pre-dominantly 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 post-conviction, this Court can 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.

7. It is also relevant to rely upon the Judgment of the Hon'ble Supreme Court of India reported in **2012 10 SCC 303** in the case of **Gian Singh Vs State of Punjab**, wherein it was held as follows:-



WEB COPY

“ The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not



Crl.O.P.No.5752 of 2025

WEB COPY

quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In view of the above facts and circumstances of the case, since the first petitioner and the second respondent are living together happily and the offence is also under Section 498A of IPC, the impugned proceeding is liable to be quashed. Accordingly, the proceedings in CC.No.90 of 2010 on the file of the learned Judicial Magistrate, Cheyyar, is hereby quashed.

9. In the result, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

28.02.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn

G.K.ILANTHIRAIYAN. J.



WEB COPY



Crl.O.P.No.5752 of 2025

mn

To

1. The Judicial Magistrate, Cheyyar.
2. The Inspector of Police,
All Women Police Station,
Cheyyar,
Tiruvannamalai District.
3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.5752 of 2025

28.02.2025