

CrI.O.P(MD)No.1214 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.01.2025
PRONOUNCED ON : 01.04.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P(MD)No.1214 of 2025

1.Balamurugan
2.Sachin
3.Chidambaram

... Petitioners

Vs.

1.The State of Tamil Nadu rep by its
The Inspector of Police,
Singampunari Police Station,
Sivagangai District.
Crime No.19 of 2022.

2.Suganya

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Spl.S.C.No.32 of 2024 pending on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Sivagangai and quash the same as against the petitioners.

For Petitioners : Mr.M.Murugesan



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CrI.O.P(MD)No.1214 of 2025

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

For R2 : Mr.C.Venkatesh

ORDER

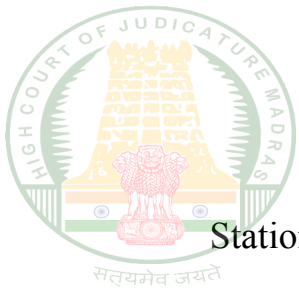
The petitioners/A1, A3 & A4, who are facing trial in Special S.C.No.32 of 2024 for offence under Sections 147, 427, 294(b), 323, 354, 506(2) IPC and Sections 7, 8, 11(5) & 12 of Protection of Children from Sexual Offences Act, 2012 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 before the learned Special Judge, Special Court for exclusive trial of cases under POCSO Act, Sivagangai, have filed this quash petition.

2.The case of the prosecution is that LW3/Govindarajan, LW4/Sundaram and his wife/LW1/Suganya were having civil dispute with the 1st petitioner/A1 and his father/A2 with regard to small land behind Roja Lodge in survey No.557/19C1. In that place, A2/Raja was having a two wheeler Service Station in ½ cent of land and adjoining land was also taken by him for ground rent. LW3 disputed the same and termed A2/Raja an encroacher. This being so, during the midnight on 15.02.2021, a ready made compound wall was attempted to be installed

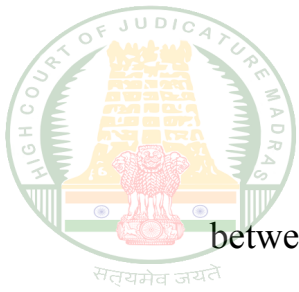


by LW5/Madhavan, M.K.Cement Works, Tiruchirapalli. LW5 brought building materials in three Bolero vehicle with his employees LW6, LW7, LW8, LW9 and other casual workers. LW1 along with her minor and her father-in-law/LW3 identified the place where the compound wall to be fixed. In that place, there was a two wheeler in the shed of A2 which was removed and the building materials unloaded. At that time, A1 and A2 came in a car, objected the construction and questioned LW1 and LW3. LW1 and LW2/minor daughter of LW1 abused and threatened, fearing for physical assault both LW1 and LW2 entered the small thatched shed near the place and locked the door. Since LW3 was not feeling well, he returned back home. In the meanwhile, A2 called his friends who came to the scene. Thereafter, A1 and A3, sons of A2 pulled LW1 and LW2 forcibly from the shed, abused and beaten them, removed the dress of LW2 and made improper touch on the chest and private parts and also assaulted LW1 which was captured by A3 in his mobile phone.

3.On getting information, LW22/Sub Inspector of Police attached to the 1st respondent Police Station along with Head Constable/LW23 who were on patrol duty reached the scene of occurrence, made enquiry. Finding that it is a civil dispute, directed parties to come to Police



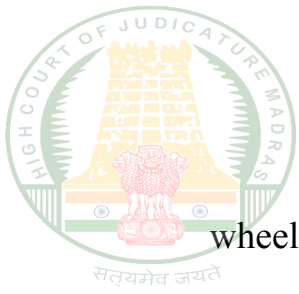
Station. In the meanwhile, LW1 and LW2 were sent to the Government Hospital, Singampunari by Auto. LW24, Duty Doctor treated LW1 and LW3. On the next day i.e., 16.02.2021, LW1 lodged a complaint with the 1st respondent and CSR.No.28 of 2021 assigned and on the complaint of Raja/A2, CSR.No.27 of 2021 assigned. Since it is a civil dispute and on the intervention of others, LW1 and the accused group decided not to further pursue their complaint and agreed to resolve the issue among themselves and CSR.No.27 of 2021 and CSR.No.28 of 2021 not acted upon. Since A1 and A2 continued to cause harassment and threat to LW1 and others, on 11.02.2022 the complaint of LW1 in CSR.No.28 of 2021 and the counter complaint of A2 in CSR.No.27 of 2021 enquired and case and counter case in Crime Nos.19 & 20 of 2022 registered. On completion of investigation in Crime No.19 of 2022, charge sheet filed listing LW1 to LW30 and the same was taken on file in Special S.C.No. 32 of 2024. In the counter complaint in Crime No.20 of 2022 investigation completed, charge sheet filed in Special S.C.No.44 of 2022 before the Special Court for trial of cases under SC/ST Act, Sivagangai. LW1, LW3 and LW4 in the above case were accused A1, A2 and A3. The case in Special S.C.No.44 of 2022 was quashed by this Court in CrI.O.P(MD) No.1240 of 2023 on the ground of compromise arrived



between the parties. A1 and A2 who are the defacto complainant and victim in Special S.C.No.44 of 2022 had entered into a compromise with LW1 & LW3 with an understanding that the counter case against the accused groups in Special S.C.No.32 of 2024 can be closed. In view of the above, the present quash petition is filed based on the compromise entered between the petitioners/accused with the defacto complainant/2nd respondent/LW1.

4.The submissions of the learned counsel for the petitioners are as follows:

(i)The learned counsel for the petitioner submitted that in this case, the alleged occurrence is said to have taken place on 15.02.2021 but the complaint was lodged only on 11.02.2022 almost after a year and the reason for the delay given is that the petitioners/accused continued their threat against the defacto complainant group. The statements of LW1, LW3 and LW4, the property owners is that there is a civil dispute with the petitioners' group. On the midnight of 15.02.2021, LW5/Madhavan, M.K.Cement Work was engaged, to install a ready made compound wall around the property which is in occupation and enjoyment of Raja/A2. The said Raja/A2, the father of the petitioners 1 and 2, was having a two



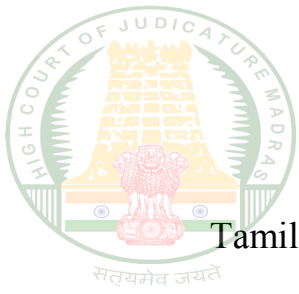
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wheeler mechanic shed. LW4, the husband of the defacto complainant engaged LW5 to install ready made compound forcibly removing the motorbike and the mechanic shed without any notice to the petitioners. Three Bolero pickup vehicles loaded with men and materials from Trichirapalli came and removed the two wheeler and materials inside the workshop. Enraged over the same, A2 questioned LW1 and there was a wordy altercation and push and pull by both sides. Thereafter, LW1 informed the Police and LW22 & LW23, the Sub Inspector and Head Constable who were on patrol duty reached the scene. There was no complaint against the petitioners 1 and 2 about dragging of LW1 and LW2 and about any improper touch with sexual intent. One year thereafter, such a theory propounded by LW1. The Investigating Officer failed to consider the background of the case and the civil suit pending between accused group and the defacto complainant group in O.S.No.5 of 2021 before the District Munsif, Singampunari. Added to it, there is a dispute between LW3/Govindharajan and his brother Rajendran, father of A5, A6 & A7. With regard to sharing of property pursuant to the family partition, further LW3 settled additional property in favour of his second son Raja since he donated a kidney to his mother Amudha but during COVID-19, the said Raja neglected and failed to take care



LW3/Govindharajan, hence LW3 cancelled the settlement made, due to which, Raja developed animosity. LWI taking advantage of the incident on 15.02.2021 roped the entire family of Rajendran and her brother-in-law Raja in the criminal complaint, which was registered after a year, the sons of Rajendran arrayed as accused along with the petitioners as A5, A6 and A7.

(ii)The learned counsel further submitted that LW24, the Doctor who treated LW1 and LW2 on 16.02.2021 recorded only abrasions found in the leg of LW1 and LW2 but nothing about forcible sexual assault or improper touch on them complained and recorded in the Accident Register. Further, except for verbal abuse, no complaint by LW1 and LW2 to LW22 and LW23, Sub Inspector of Police and Head Constable who reached the spot immediately on getting information in the midnight on 15.02.2021. LW22 confirmed that on the complaint of A2/Raja, C.S.R.No.27 of 2021 assigned and on the complaint of LW1, C.S.R.No. 28 of 2021 assigned and both parties entered into a compromise and CSRs closed. Contrary to the closure, LW29 registered a case in Crime No.19 of 2022 against the accused herein for offence under Sections 147, 148, 448, 427, 294(b), 323, 354 and 506(ii) of IPC and Section 4 of



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Tamil Nadu Prohibition of Harassment of Women Act and under Sections 7, 8, 11 & 12 of Protection of Children from Sexual Offences Act, 2012. On the same day, PW29 registered FIR in Crime No.20 of 2022 against LW1, LW3 & LW4 on the complaint of A2 for offence under Sections 147, 148, 448, 427, 294(b), 323, 324, 355, 342, 336, 379(NH) and 307 IPC r/w 3(1)(r)(s) of SC/ST Act. The investigation in the present case commenced only after a year and the projected eye witnesses to the occurrence are LW5, LW6, LW7, LW8 and LW9 who are the owner and employees of M.K.Cement Work, Trichirapalli who were engaged to fix a compound wall. The statements of these witnesses confirmed that there was a wordy quarrel, abuse and assault but no sexual assault. Likewise, the other set of projected eye witnesses are LW10, LW11, LW12 and LW13 who are Night Watchman employed by the Traders Association and the Auto Drivers, who on hearing the shout and seeing the commotion reached the scene of occurrence. They have not stated anything about sexual assault. In view of the above, it is clear that a civil dispute manifested into a sexual assault case and taking advantage of LW2 being a minor, the petitioners have been strapped with POCSO Case.



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(iii)The learned counsel further added that after the dispute, there was reconciliation of the issues and compromise arrived between both the groups and both agreed not to further precipitate the cases against each other. Hence, A1 and A2 in this case agreed to compound the offence against LW1, LW3 and LW4 and this Court in CrI.O.P(MD)No. 1240 of 2023 recorded the same and quashed the Special S.C.No.44 of 2022. Hence, on the compromise having no objection the defacto complainant in the present petition agrees to quash the Special S.C.No.32 of 2024.

(iv)The learned counsel for the petitioners fairly submitted that earlier the petitioners filed CrI.O.P(MD)No.20628 of 2024 before this Court. Since the learned counsel for the petitioner not briefed with complete details and the facts of the case, and the subsequent developments was unable to answer the queries of this Court as to why the quash petition filed for A1, A3 and A4 alone and he sought for withdrawal of the petition to come up with complete details. Since earlier quash petition was not considered on merits, the present quash petition filed with details can be considered. In this case, A5, A6 & A7 are the sons of Rajendran, who is the brother of LW3/Govindharajan.



There is a family partition dispute between LW3/Govindharajan and Rajendran family, hence the sons of Rajendran A5, A6 and A7 where under the impression that the present case initiated against them with malafide intention. Hence to prove their point and to project malafide in the civil suit, objections made by legal heirs of Rajendran and now the petitioners are caught in the crossfire for the civil dispute between LW1, LW3, LW4 and A5, A6, A7. The case in Special S.C.No.44 of 2022 and Special S.C.No.32 of 2024 both are in the nature of case and counter and now the counter case in Special S.C.No.44 of 2022 quashed on the compromise and understanding, hence as a corollary the case in Special S.C.No.32 of 2024 can be quashed. In the interest of justice, the petitioners' relief of compounding and quashing the case to be considered.

5.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that in this case, LWI is the defacto complainant who along with her minor daughter/LW2 and father-in-law/LW3 had come out to identify the place to unload the materials for construction of compound wall. LW4, employed as Government Doctor, the husband of LWI, who was on night duty, engaged Madhavan/LW5



M.K.Cement Work for construction of compound wall. Since there is a thatched shed and a bike obstructing the construction work, the employees and workers of LW5 removed the obstructions. On coming to know about the same, A1 and A2 came in a car, questioned and abused LW1 to LW3. LW1 and LW2 to save themselves from the abuse and assault by the accused, locked themselves into the thatched shed. Using crowbar, the accused had broken open the door, pulled LW1 and LW2 from the thatched shed, made improper touch on them. LW1 called emergency Police 100. On getting information, LW22 and LW23, the Sub Inspector of Police and Head Constable came to the scene, pacified and separated the fighting group and sent LW1 and LW2 to the hospital. LW24, the Assistant Surgeon attached to the Government Hospital, Singampunari treated LW1 and LW2 on 16.02.2021 at about 02.15 a.m and issued the Accident Register on the same day. On the next day, LW1 lodged a complaint against the accused herein and A2 in this case lodged a counter complaint against LW1, LW3 and LW4. C.S.R.Nos.27 & 28 of 2021 assigned to both the complaints and later both LW1 group and A2 resolved the issue among themselves and the complaints were not acted upon. Taking advantage of the same, the accused continued abuse and threat to LW1 and her family members. Unable to bear any further, on



11.02.2022, LW1 activated the complaint and LW29 registered a case in Crime No.19 of 2022 against the accused herein. Likewise, LW29 registered a case against LW1, LW3 and LW4 on the complaint of A2 in Crime No.20 of 2022. Finding that it is a case and counter, the Deputy Superintendent of Police, Sivagangai/LW30 took up investigation of both cases in Crime Nos.19 & 20 of 2022, visited scene of occurrence, prepared Observation Mahazar, Rough Sketch, enquired the witnesses present in the scene of occurrence, sent LW1 and LW2 to the Magistrate for recording 164 Cr.P.C statements, collected the medical records from the Doctor and collected photographs and mobile phone. On completion of investigation, charge sheet filed in this case listing LW1 to LW30 and Material Objects MO1 to MO6.

6.He fairly submitted that on the complaint of A1 and A2, a case in Crime No.20 of 2022 registered, investigation completed, charge sheet filed in Special S.C.No.44 of 2022 against LW1, LW3 & LW4 for offence under Sections 147, 148, 448, 427, 294(b), 323, 324, 355, 342, 336, 354, 379(NH) and 307 IPC r/w 3(1)(r)(s) of SC/ST Act. Both the cases are in the nature of case and counter case. After passage of time, a compromise entered between both the groups and based on the



CrI.O.P(MD)No.1214 of 2025

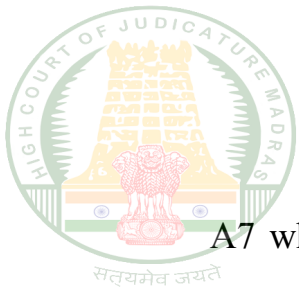
compromise, compounding petition filed and this Court in CrI.O.P(MD)No.1240 of 2023 quashed the proceedings in Special S.C.No.44 of 2022 against LW1, LW3 and LW4 by order, dated 12.09.2024 and presently the present quash petition filed to quash the Special S.C.No.32 of 2024.

7.The learned counsel for A5/Santhosh Kumar appeared and objected for compounding the offence stating that Santhosh Kumar/A5, Babu/A6 and Krishnakumar/A7 are sons of Rajendran/A14 in FIR and LW1 and her family members/LW3 and LW4 have civil dispute with them. Taking advantage of the incident, though A5, A6 and A7 were not present in the scene of occurrence and no way connected to the dispute between A1, A2, A3 and LW1's family, they were falsely implicated. To take appropriate action against them, A5 intervened and made his objection. He further submitted that earlier, A5 filed CrI.O.P(MD)No. 870 of 2025 for speedy disposal of the trial in Special S.C.No.32 of 2024 and this Court had given positive direction on 21.01.2025. He further submitted that since the offence against the accused in this case includes offence under POCSO Act, in normal course it cannot be compounded. There are civil cases in O.S.Nos. 179 of 2019 and 39 of 2022 pending



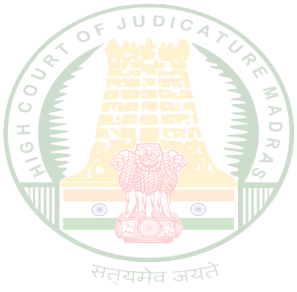
before the learned District Munsif, Singampunari. He further submitted that LW1 earlier got married with one Venkateswaran, son of Palanivel on 14.02.2011 and a baby born to them. When LW4/Dr.Sundaram, husband of the defacto complainant was employed in a Private Hospital in Trichirapalli, at that time he developed relationship with the defacto complainant even when the marriage between the defacto complainant and Venkateswaran was in subsistence. The defacto complainant at a later point of time got divorce from Venkateswaran and married LW4/Dr.Sundaram. The Birth Certificate of the minor girl/LW2 would prove the fact that the minor girl/LW2 is born to Divya and Senthil in Arun Hospital. As a cover up Divya name changed as Suganya, who is the defacto complainant herein. Thus, the defacto complainant suppressing these facts lodged a complaint falsely implicated A5, A6 and A7. To expose the misdeeds of the defacto complainant, A5 insisted continuation of the case.

8.He further submitted that a civil dispute is pending between Rajendran/A14 in FIR and LW3/Govindharajan with regard to ancestral property, the 2nd respondent abusing the law and process of Court, gave criminal colour to the civil dispute and foisted false case against A5 to



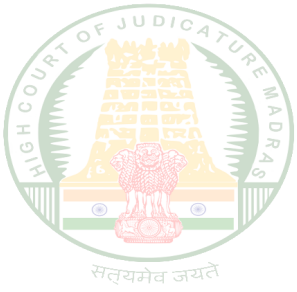
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A7 who are sons of Rajendran/A14 in FIR. In this case, A1 purchased property *vide* registered document No.1766 of 2023 which is an ancestral property of LW4/Dr.Sundaram, Son of Govindarajan/LW3. Thus, this case has been used to threaten the legal heirs of Rajendran to give away their right over their ancestral property. The defacto complainant to wreak vengeance against A5 to A7 falsely implicated them in this case. The learned counsel further submitted that though initially CSRs assigned on 16.02.2021, on the same day, the CSRs recorded as closed since it is a civil dispute. But one year later, on 11.02.2022, FIR in Crime Nos.19 & 20 of 2022 registered. In FIR in Crime No.19 of 2024, 14 persons arrayed as accused including Rajendran as A14 and A5, A6 and A7 are shown as A10, A11 and A12 in FIR. On completion of investigation, some named accused in the FIR *viz.*, Prabhu @ Stalin/A4, Saran/A6, Halifullah/A7, Sheik Davood/A8, Chezhiyan/A9, Raja/A13 and Rajendran/A14 names dropped finding they were falsely implicated. As regards A5 to A7 are concerned, since they had gone to the scene of occurrence after the fight to find out whether there is any encroachment or damage to their share of ancestral property and they are implicated in this case. Thus, the defacto complainant has not come with clean hands and she lodged a motivated complaint by suppressing the real facts.



9.He further submitted that earlier, the petitioners herein filed CrI.O.P(MD)No.20628 of 2024 before this Court to quash Special S.C.No.32 of 2024 and this Court was not willing to quash the case and later it was dismissed as withdrawn. In this case, A5 to A7 opposed the compromise to prove the fact that a motivated complaint filed against them. He further added that A5 filed CrI.O.P(MD)No.870 of 2025 to expedite the trial in Special S.C.No.32 of 2024 on the ground that the defacto complainant had given a criminal colour to a civil dispute; used the criminal case, forcing Rajendran and his legal heirs to withdraw the civil suits; a minor girl/LW2 used as a tool projecting as though LW2 was sexually assaulted. This Court, by order, dated 21.01.2025 gave direction to complete the trial in Special S.C.No.32 of 2024 within a period of four months. In such circumstances, encouraging the present quash petition and quashing the proceedings on the ground of compromise, would deny A5 and his brothers to prove false and motivated complaint lodged against them.

10.This Court considered the rival submissions including the submissions of the learned counsel for A5/Santhosh Kumar and perused the materials available on record.



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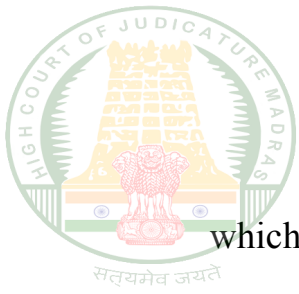
11.The petitioner earlier has filed CrI.O.P(MD)No.20628 of 2024 before this Court to quash the proceedings in Special S.C.No.32 of 2024 and when this Court questioned the status of the other accused viz., A5 to A7 in this case and about the civil suits, the learned counsel then was unable to give details, about the civil suits and subsequent development and quashing of counter case in Special S.C.No.44 of 2022 in CrI.O.P(MD)No.1240 of 2023, by order, dated 12.09.2024. This Court observed in order, dated 12.09.2024 that a dispute arose with reference to fencing and further the dispute escalated into a mild violence between the parties suffering injuries and considering the resolvment of the dispute, compromise reached quashed Special S.C.No.44 of 2022 which includes IPC offence and offence under the SC/ST Act.

12.It is seen that the Special S.C.No.44 of 2022 is a case arise out of Crime No.20 of 2022 on the complaint of Raja/A2 and the 1st petitioner/A1 for the offence under Sections 147, 148, 448, 427, 294(b), 323, 324, 355, 342, 336, 354, 379(NH) and 307 IPC r/w 3(1)(r)(s) of SC/ST Act. Prior to registration of Crime Nos.19 & 20 of 2022, CSR.No.27 of 2021 assigned on the complaint of Raja/A2 and CSR.No. 28 of 2021 assigned on the complaint of the defacto complainant/LW1



herein. Both CSRs closed on 16.02.2021. Almost a year later, the defacto complainant again activated the complaint since she faced threat and abuse. In the complaint, the defacto complainant admits closure of the complaint on 16.02.2021 and the civil dispute between the petitioners and the defacto complainant to resolve the dispute among themselves. After a year, the case in Crime No.19 of 2022 came to be registered on 11.02.2022 for the incident which took place on 15.02.2021 midnight. In the FIR in Crime No.19 of 2022, 14 persons named as accused. On completion of investigation, charge sheet filed deleting seven persons names and arraying the petitioners (A1, A3, A4) and four others (A5 to A7) as accused. In this case, A2 Raja died.

13.The pendency of the civil suits in O.S.Nos. 179 of 2019 and 39 of 2022 before the learned District Munsif, Singamunari with regard to sharing of the ancestral property between the legal heirs of Sundaram Chettiayar is not in dispute. Likewise, the pendency of the civil suits between LW3 and the 1st petitioner/A1, his father Raja/A2 in O.S.No.5 of 2021 is also not in dispute. The civil suit pending between the defacto complainant/LW1 and A1, A2 is for 27 cents of land which said to have given on ground rent and for 150 sq.ft of land in survey No.577/19C1



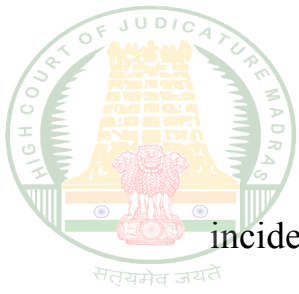
which is situated behind Roja Lodge where A2 said to have put up thatched mechanic shed.

14.The case originates from the fact that LW4/Dr.Sundaram, husband of the defacto complainant engaged LW5/M.K.Cements Work, Trichirapalli to build a ready made compound wall in the property where A2 having thatched mechanic shed. LW5 brought 200 cement slabs with 40 posts in three vehicles along with eight persons namely LW6 to LW9 and others for fixing concrete wall. At that time, LW1, LW2, LW3 came and identified the place to build compound wall and thereafter, motor bike and encroachment in the disputed property removed. Coming to know about the same, A1 and A2 came in a car, questioned the removal of bike and encroachment in the property, wordy quarrel arose. LW3 admits that since he was feeling unwell, he had gone back home. LW1 and LW2 entered the thatched mechanic shed and locked themselves for safety. The other allegations seems to be that A2 called the other accused who all assembled armed with crowbar and sticks and broke open the door, pulled LW1 and LW2, abused, assaulted which was also videographed. The further case is that LW1 called Police, LW23 and LW24 came to the scene and pacified the fighting group. This incident



witnessed by LW10/Night Watchman engaged by Traders Association and by LW11 to LW13, the Auto Drivers who were near the bus stand.

LW22, the Sub Inspector and LW23, Head Constable stated that on receipt of phone call, they reached the spot, separated the group, collected the mobile phones of LW1 and LW2 from the dashboard of A2's car and LW1 and LW2 went to the Government Hospital, Singampunari, LW22 took all the vehicles to the Police Station and LW5 to LW9 questioned them with regard to fixing of compound wall at odd hours and thereafter, the three Bolero vehicles released. LW24, Dr.Senthil examined both LW1 and LW2 and recorded the Accident Register. LW1, LW3 came to the Police Station on the next day on 16.02.2021 and complaint from both LW1 and Raja/A2 received, CSR Nos.27 & 28 of 2021 assigned. Thereafter, finding that it is purely a civil dispute, the complaints closed. It is to be seen that LW1, LW3, LW4, LW5 to LW13 who were present in the scene, had not stated anything about the sexual assault or improper touch made on LW1 and LW2. The Doctor LW24 recorded the Accident Register only with regard to the brushes and abrasions on the back of LW1's right leg and on the front of LW2's right leg, nothing more. LW22 and LW23 confirm there was only verbal abuse. This being so, more than a year later, a complaint for the



incident on 15.02.2021 later activated for the reason the threat and abuse by A1 and A2 continued.

15.The witnesses viz., LW15, LW16, LW17, LW18 and LW19 are all tenants and shop owners in Roja Lodge. They state that they were tenants under Rajendran's family and there was dispute and civil cases between the Rajendran family and Govindarajan family in sharing the inherited property. LW3/Govindarajan confirms that he settled a portion of property to his other son Raja/A13 in the FIR in addition to the earlier family partition since he donated his kidney to LW3's wife Amudha. Later, during COVID-19 period, since Raja failed to take care of the elders, this settlement was cancelled, hence there was animosity in this regard which LW16 attempted to resolve but failed. LW20 and LW21 are the witnesses for Observation Mahazar who admitted the preparation of the mahazar on 11.02.2022 at 07.00 p.m. LW14, employee of Nikin Mobile, downloaded the recordings of the incident recorded in the defacto complainant's phone and the phone is now sent for forensic examination. The downloaded video confirmed the wordy altercation and fight. LW25, LW27 and LW28 are the Police personnels who aided the Inspector during investigation. LW26 is the Judicial Magistrate who



recorded 164 Cr.P.C statements of LW1 and LW2 on 24.02.2022. The

164 Cr.P.C statements of LW1 and LW2 are not a substantive evidence except to be considered as a prior statement. Now the defacto complainant compounded the offence and not willing to pursue the case. Hence, 164 Cr.P.C statements as against the petitioners is of no value and nothing adverse can be drawn against them. LW29 is the Investigating Officer who registered both FIRs and conducted investigation. On coming to know that a counter complaint of A2 is investigated in Crime No.19 of 2022 and both the Crime Nos.19 & 20 of 2022 are in the nature of case in counter, PW29 placed the investigation in both the crime numbers to LW30, Deputy Superintendent of Police. LW30 conducted the investigation in both FIRs and filed the charge sheet in Special S.C.Nos.44 of 2022 and 32 of 2024. Thereafter, the case in Special S.C.No.44 of 2022 was quashed by this Court on 12.09.2024 in CrI.O.P(MD)No.1240 of 2023. Now the present case in Special S.C.No. 32 of 2022 is the counter case.

16.It is seen understanding reached and based on the compromise entered between the parties, the cases in Special S.C.No.44 of 2022 and Special S.C.No.32 of 2024 both to be quashed by filing appropriate



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petition on compromise. Though the Special S.C.No.44 of 2022 was quashed by this Court on 12.09.2024, due to non cooperation the petition to quash the case in Special S.C.No.32 of 2024 could not be filed immediately, later filed in CrI.O.P(MD)No.20628 of 2024 for the queries raised, the learned counsel then could not give details, hence CrI.O.P(MD)No.20628 of 2024 was withdrawn and not adjudicated on merits. Thereafter, the present petition filed with particulars with regard to civil suits and motivated complaint given by LW1 and the subsequent developments. In view of the above, the present quash petition entertained.

17.It is seen from the submissions made by the learned counsel for A5/Santhosh Kumar that A5 has got grievance with the defacto complainant/LWI as regards the civil dispute in sharing the inherited property of Sundaram Chettiyar, father of Govindarajan/LW3 and Rajendran/A14 in FIR. LW4/Dr.Sundaram and Raja/A13 in FIR are sons of LW3/Govindarajan Chettiyar. A5 to A7 who are originally A10, A11 and A12 in the FIR and Saran/A6 in FIR are sons of Rajendran/A14 in the FIR. There are civil suits pending between them in sharing the ancestral inherited property. The objection of A5 is that a civil dispute



manifested into a criminal complaint by the defacto complainant/LW1 and that the defacto complainant using her minor daughter/LW2 as a tool lodged a false complaint against the accused including the offence under POCSO Act. As regards A5, A6 and A7 are concerned, the charge against them is under Sections 147 and 427 IPC and as regards the other accused, namely A1 to A4, the charges is under Sections 147, 323, 354, 427, 294(b) IPC and against A1 and A3, the charge is under IPC offences and offence under Sections 7, 8, 12, 11(5) of POCSO Act. In this case, A2 is no more.

18.In view of the above facts, it is clear that a civil dispute has been manifested into a criminal complaint. Initially, the criminal complaint was compromised, the allegation of improper touch and sexual assault made after a year. Based on which, FIR in Crime No.20 of 2022 registered for offences under the IPC and POCSO Act. Thus, the present case exposes how a civil dispute can be manifested into criminal complaint and misuse of Special enactments.

19.Now, the defacto complainant/LW1 reckoning to the reality and realizing the mistake, filed the compromise memo. The defacto



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complainant/LWI and the petitioners appeared before this Court, on the interactions with them, the defacto complainant confirmed the compromise and quashing of the counter case in Special S.C.No.44 of 2022. It is also submitted by the defacto complainant that she will abide by the Civil Court findings with regard to apportionment of inherited property and that she has got no objection to quash the case in Special S.C.No.32 of 2024 not only against the petitioners and also against A5 to A7 in order to give quietus to the criminal case.

20.The Hon'ble Apex Court in the case of Gian Singh v. State of Punjab and another reported in (2012) 10 SCC 303 had held as follows:

“58.Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only



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because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.



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59.B.S. Joshi [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , Nikhil Merchant [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] , Manoj Sharma [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] and Shiji [(2011) 10 SCC 705 : (2012) 1 SCC (Cri) 101] do illustrate the principle that the High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power under Section 482 of the Code and Section 320 does not limit or affect the powers of the High Court under Section 482. Can it be said that by quashing criminal proceedings in B.S. Joshi [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , Nikhil Merchant [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] , Manoj Sharma [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] and Shiji [(2011) 10 SCC 705 : (2012) 1 SCC (Cri) 101] this Court has compounded the non-compoundable offences indirectly? We do not think so. There does exist the distinction between compounding of an offence under Section 320 and quashing of a criminal case by the High Court in exercise of inherent power under Section 482. The two powers are distinct and different although the ultimate consequence may be the same viz. acquittal of the accused or dismissal of indictment.

60.We find no incongruity in the above principle of law and the decisions of this Court in Simrikhia [(1990) 2 SCC 437 : 1990 SCC (Cri) 327] , Dharampal [(1993) 1



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SCC 435 : 1993 SCC (Cri) 333 : 1993 Cri LJ 1049] , Arun Shankar Shukla [(1999) 6 SCC 146 : 1999 SCC (Cri) 1076 : AIR 1999 SC 2554] , Ishwar Singh [(2008) 15 SCC 667 : (2009) 3 SCC (Cri) 1153] , Rumi Dhar [(2009) 6 SCC 364 : (2009) 2 SCC (Cri) 1074] and Ashok Sadarangani [(2012) 11 SCC 321] . The principle propounded in Simrikhia [(1990) 2 SCC 437 : 1990 SCC (Cri) 327] that the inherent jurisdiction of the High Court cannot be invoked to override express bar provided in law is by now well settled. In Dharampal [(1993) 1 SCC 435 : 1993 SCC (Cri) 333 : 1993 Cri LJ 1049] the Court observed the same thing that the inherent powers under Section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code. Similar statement of law is made in Arun Shankar Shukla [(1999) 6 SCC 146 : 1999 SCC (Cri) 1076 : AIR 1999 SC 2554] . In Ishwar Singh [(2008) 15 SCC 667 : (2009) 3 SCC (Cri) 1153] the accused was alleged to have committed an offence punishable under Section 307 IPC and with reference to Section 320 of the Code, it was held that the offence punishable under Section 307 IPC was not compoundable offence and there was express bar in Section 320 that no offence shall be compounded if it is not compoundable under the Code. In Rumi Dhar [(2009) 6 SCC 364 : (2009) 2 SCC (Cri) 1074] although the accused had paid the entire due amount as per the settlement with the bank in the matter of recovery before the Debts Recovery Tribunal, the accused



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was being proceeded with for the commission of the offences under Sections 120-B/420/467/468/471 IPC along with the bank officers who were being prosecuted under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act. The Court refused to quash the charge against the accused by holding that the Court would not quash a case involving a crime against the society when a prima facie case has been made out against the accused for framing the charge. Ashok Sadarangani [(2012) 11 SCC 321] was again a case where the accused persons were charged of having committed the offences under Sections 120-B, 465, 467, 468 and 471 IPC and the allegations were that the accused secured the credit facilities by submitting forged property documents as collaterals and utilised such facilities in a dishonest and fraudulent manner by opening letters of credit in respect of foreign supplies of goods, without actually bringing any goods but inducing the bank to negotiate the letters of credit in favour of foreign suppliers and also by misusing the cash-credit facility. The Court was alive to the reference made in one of the present matters and also the decisions in B.S. Joshi [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , Nikhil Merchant [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] and Manoj Sharma [(2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] and it was held that B.S. Joshi [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] and Nikhil Merchant [(2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] dealt with different factual situation as the dispute involved



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had overtures of a civil dispute but the case under consideration in Ashok Sadarangani [(2012) 11 SCC 321] was more on the criminal intent than on a civil aspect. The decision in Ashok Sadarangani [(2012) 11 SCC 321] supports the view that the criminal matters involving overtures of a civil dispute stand on a different footing.

61.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 FIR may be exercised where the offender and the 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



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not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not 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



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compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

21.In the light of the above decision and the facts and circumstances of the case, this Court is inclined to quash the proceedings in Special S.C.No.32 of 2024.

22.In the result, the proceedings in Special S.C.No.32 of 2024 pending on the file of the Special Judge, Special Court for exclusive trial of cases under POCSO Act, Sivagangai is hereby quashed against the petitioners (A1, A3 & A4) and against the other accused A5 to A7 who are similarly placed. A2 in this case reported no more. Accordingly, this Criminal Original Petition is allowed. Hence, the accused in Special S.C.No.32 of 2024 are discharged from all charges.

23.In quashing the entire case in Special S.C.No.32 of 2024, this Court directs the Director of Forensic Science, Chennai to erase/delete all files, pictures and videos and to format the mobile phones viz., VIVO



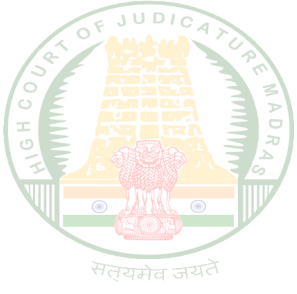
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2040 Blue Colour Cell Phone (PR.No.03/2022) and VIVO 1907 Ice Blue Colour (PR.No.04/2022) which were forwarded to the Director of Forensic Science, Chennai in CF:119/2022, PHY:64/2022 and CF:141/2022 and PHY:75/2022. After formatting the mobile phones, the formatted mobile phones can be sent back to the Trial Court. In view of quashing of entire case in Special S.C.No.32 of 2024, the Trial Court to dispose the material objects as per law.

01.04.2025

Speaking order/Non-speaking order
Index: Yes/No
Neutral Citation: Yes/No

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M.NIRMAL KUMAR, J.

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To

- 1.The Special Judge,
Special Court for exclusive trial of cases under POCSO Act,
Sivagangai.
- 2.The Inspector of Police,
Singampunari Police Station,
Sivagangai District.
- 3.The Directorate of Forensic Science,
Chennai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.

PRE-DELIVERY ORDER IN
CrI.O.P(MD)No.1214 of 2025

01.04.2025