



Crl.O.P.(MD)No.3515 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :25.02.2025

CORAM :

THE HON'BLE MR.JUSTICE P. DHANABAL

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1. Murugan

2. Sivaperumal

... Petitioners

Vs.

1. The State of Tamil Nadu
Rep. by the Inspector of Police,
Radhapuram Police Station,
In Crime No. 32/2013,
Tirunelveli District.

2. Manikandan

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the Charge Sheet in S.C.No. 745/2018 on the file of the Subordinate Judge, Valliyur and quash the same against the petitioner's concern.

For Petitioners : Mr.C.Susikumar

For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

For R2 : Mr. R.Maheswaran



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ORDER

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This petition has been filed by the petitioners/Accused no.1 and 2 to call for the records relating to the Charge Sheet in S.C.No. 745 of 2018 on the file of the Subordinate Court, Valliyur and quash the same against the petitioners.

2. The prosecution case is that due to previous enmity between the petitioners and the defacto complainant, on 22.03.2013, the petitioners have assaulted the defacto complainant and thereby, caused injuries. Hence, the second respondent lodged a complaint and based on the said complaint, FIR has been registered in Crime No.32 of 2013 for the offences under Sections 294(b), 307 and 506(ii) of the Indian Penal Code, 1860 and thereafter, the matter has been elaborately investigated and after investigation, the final report has been filed as against the petitioners. Now the case is pending for trial. At this stage, the petitioners have filed this quash petition.

3. The learned Counsel appearing for the petitioners would submit that during the pendency of the petition, the matter has been compromised between the parties and the petitioners also tendered apology with the defacto complainant and thereby, the matter has been amicably settled between the parties and also filed a compromise memo.



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4. The 2nd respondent / defacto complainant also appeared through his counsel and filed a compromise memo and appeared before this Court in person and he also expressed his willingness and stated that already matter has been settled between the parties and therefore, he has no objection to allow this petition.

5. The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that the offences are grave in nature, thereby he strongly opposed to quash the proceedings.

6. At this juncture, the learned Counsel appearing for the petitioners has relied upon a judgement of Hon'ble Supreme Court in ***Narinder Singh and others vs. State of Punjab and another reported in (2014) 6 Supreme Court Cases 466***, wherein the Hon'ble Supreme Court has laid down guidelines in respect of the compounding offences in para No.29.1. to 29.7. as follows:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:"



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29.1. *Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.*

29.2. *When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:*

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. *Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offence committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.*

29.4. *On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.*

29.5. *While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice*



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and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall into the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital / delicate parts of the body, nature of weapons used, etc., Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings / investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the



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evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances / material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial Court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial Court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial Court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime".

7. On a careful perusal of the above said judgment, it is clear that when the parties have reached the settlement and on that basis, petition for quashing the criminal proceedings is filed, the guiding factors in such cases would be to secure ends of justice or to prevent abuse of the process of any Court. While exercising the power, the High Court has to form an opinion on either of the aforesaid two objectives.

8. In this case, due to sudden provocation, the occurrence had happened. As per the available records, the victim did not sustain any



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injuries and the petitioners had no intention to cause death to the victim.

Therefore, the defacto complainant decided to forgive the petitioners, thereby, the parties entered into compromise. Moreover in this case, no evidence has been recorded and the case is pending at the stage of trial. At this stage, the parties entered into compromise. Therefore, in order to secure the ends of justice, it is appropriate to allow the petition by applying the law laid down by the Hon'ble Supreme Court in the above said judgment.

9. Therefore, in view of the above discussions and the above said judgment, this Court is of the opinion that it is appropriate to allow this petition.

10. Accordingly, this Criminal Original Petition stands allowed and the proceedings in S.C.No.745 of 2018 on the file of the learned Sub Ordinate Judge, Valliyur is quashed as against these petitioners. The memo of compromise, dated 17.02.2025 filed by the parties, shall form part of this order.

25.02.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

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P. DHANABAL, J.,

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To

1. The Sub Ordinate Judge, Valliyur.
2. The Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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