

CRL.OP(MD) NO.3518 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. O.P(MD) No.3518 of 2025

1. Venkatesh

2. Kaliraj

3. Ganesan @ Bar Ganesan

4. Kumar @ Rajagopal

... Petitioners

Vs

1. The State of Tamil Nadu,
Rep. by the Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
(Crime No. 1041/2020).

2. Vijayakumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to call for the records relating to the Charge Sheet in S.C. No. 115 of 2022 in Crime No. 1041 of 2020 on the file of the Learned Assistant Sessions cum Sub Court, Kovilpatti and Quash the same as illegal.



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For petitioners	: Mr.G.Sarath Kumar
For R1	: Mr.M.Sakthi Kumar
	Government Advocate (Crl side)
For R2	: Mr.R.Bala Krishnan

ORDER

This petition has been filed by the petitioner to call for the records pertaining to S.C. No. 115 of 2022 on the file of the Assistant Sessions cum Sub Court, Kovilpatti for the offences under Sections 341, 294(b), 323, 355, 307 and 506(2) of IPC, in Crime No.1041 of 2020 and quash the same.

2. According to the petitioner, based on the complaint given by the defacto complainant, the police has registered FIR in Cr.No. 1041 of 2020 for the offences under Sections 341, 294(b), 323, 355, 307 and 506(2) of IPC.

3. When the matter was taken up for hearing, the learned counsel on both sides represented that during pendency of the case in S.C. No. 115 of 2022, the matter has been amicably settled between the parties and to that effect, they have entered into a compromise and the same was filed before



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this Court.

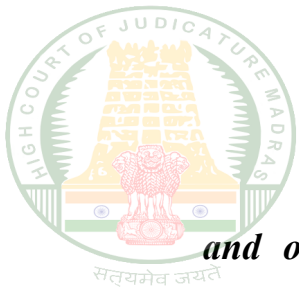
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4. Today, the defacto-complainant and the accused are present and the Court enquired about the terms of compromise. The defacto-complainant represented that they entered into a compromise. A compromise memo, dated NIL (received by the Registry on 24.02.2025) signed by the parties and their respective counsels, is also filed before this Court. Also it is represented by the defacto complainant that there are no injury on the vital part of his body and the matter has been settled between the parties as they are neighbors.

5.The learned Government Advocate (Crl.Side) would submit that the third petitioner died during the pendency of this case. He would further submit that apart from the defacto complainant, another victim also sustained injuries. However, he has not taken any treatment

6. This Court has perused the terms of the compromise memo.

7. At this juncture, the learned counsel appearing for the petitioners has relied upon a judgement of Hon'ble Supreme Court in ***Narinder Singh***



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and others vs. State of Punjab and another reported in (2014) 6

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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:

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



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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 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



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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 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



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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".

8. 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.

9. In this case, due to sudden provocation, the occurrence had happened. As per the available records, the victim did not sustain injury on the vital part of the body and the petitioners have 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.



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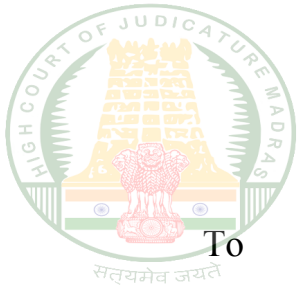
Therefore, in order to secure the ends of justice, it is appropriate to allow the petition by applying the law laid down by the Hon'ble Supreme Court in the above said judgment.

10. 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.

11. Recording the said compromise memo, this petition is allowed and S.C.No.115 of 2022 on the file of the Assistant Sessions cum Sub Court, Kovilpatti is quashed. The compromise memo dated NIL (received by the Registry on 24.02.2025) filed by the parties shall form part of this order.

05.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
LR



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1.The Assistant Sessions cum Sub Court, Kovilpatti.

2.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

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



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P.DHANABAL,J

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