

Crl.O.P.(MD)No.13588 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.03.2025

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The Hon`ble Mr. Justice P.DHANABAL

Crl. O.P(MD)No.13588 of 2024

1. Vivek
2. Vinoth Raja
3. SenthilKumar
4. Barani
5. Pandiyan
6. Santhosh

... Petitioner s

vs.

1. The Inspector of Police
Ammamet Police Station
Thanjavur District

2. Balasundar

...Respondents

PRAYER: The Criminal Original petition is filed under Section 528 of B.N.S.S, to call for the records connected with the case in S.C.No.289 of 2023 on the file of the Principal Subordinate Court, Kumbakonam and quash the same as illegal.

For petitioners : Mr.S.Gurumoorthy

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate(Crl.Side)
No.2 : M/s.Lavanya



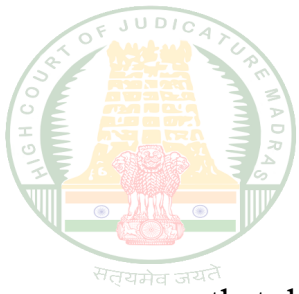
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ORDER

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This Criminal Original petition has been filed to quash the pending proceedings in S.C.No.289 of 2023 on the file of the Principal Subordinate Court, Kumbakonam.

2. The prosecution case is that on 28.10.2022 at about 7.30 am., when the defacto complainant and the said Chandrasekaran were sitting in the northern portion of the land at that time A1 came there abused him in filthy language and other accused persons abused him in filthy language and trespassed into the Chandrasekaran house and A1 assaulted the defacto complainant, at that time the defacto complainant ran away from the occurrence spot but A1 chased him and again assaulted in his right hand and threatened with dire consequences. Thereafter the villagers called the ambulance and admitted the defacto complainant in the hospital. Hence FIR has been registered in Cr. No.1578 of 2022 for the offences under Sections 147,148,294(b),452,324,307 and 506(2) of IPC and thereafter, the matter has been elaborately investigated and after investigation, the final report has been filed as against the petitioners. At this stage, the petitioners have filed this quash petition.



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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.

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 have 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:-

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"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 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



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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 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



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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 there is no any injuries in the vital parts of the body of the injured. As per the available records, the victim did not sustain any injuries and the petitoiners 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



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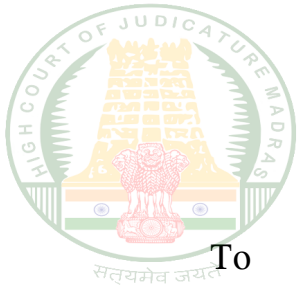
this stage, the parties entered into compromise. Therefore, in order to secure the ends of justice, it is appropriate to allow the petition by applying the law laid down by the Hon'ble Supreme Court in the above said judgment.

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, the Criminal Original Petition is allowed and the proceedings in S.C.No.289 of 2023 on the file of the Principal Subordinate Court, Kumbakonam is quashed.

21.03.2025

Index: Yes/No
Internet: Yes/No
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To

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1. The Principal Subordinate Court, Kumbakonam
2. The Inspector of Police
Ammapet Police Station
Thanjavur District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



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P.DHANABAL,J

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