

Crl.O.P.(MD)No.15201 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.15201 of 2024

and

CRL MP(MD)No.9511 of 2024

Siva Murugan

... Petitioner / Sole Accused

Vs.

1.The Inspector of Police
Alwarkurichi Police Station,
Tirunelveli District.
(Crime No.90/2024)

... 1st Respondent / Complainant

2.Bharathi

... 2nd Respondent / Defacto
Complainant

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to F.I.R. In Crime No.90/2024, on the file of the 1st Respondent Police, and quash the same.

For Petitioner : Mr.A.Balakrishnan

For R1 : Mr.K.Sanjai Gandhi
Govt. Advocate(Crl.Side)

For R2 : Mr.S.Pugalendhi



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ORDER

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Seeking to quash the proceedings in Crime No.90 of 2024, on the file of the 1st Respondent Police, for the offence under Section 354D of IPC., and Section 67 of Information Technology Act, 2000, the Petitioner, who is the sole accused, has filed the present Criminal Original Petition.

2. The case of the prosecution is that on 07.05.2024 the defacto complainant gave a complaint before the Sub-Inspector of Police, Alwarkurichi Police Station stating that the defacto complainant is a married woman, residing with her husband and children. The petitioner/accused is a relative of the defacto complainant. After a long period, two years ago, she met the accused in the temple festival and developed friendly relationship with him and used to make a video call. Upon his request, several times she appeared in a video call in nude manner. Subsequently, it came to the notice of the husband of the defacto complainant and he warned her. Thereafter, she stopped to talk with the accused. In the meantime, an another relative of the defacto complainant viz, Ramkumar shows a video to her in his mobile, which was taken by the accused during the video call and on enquiry, she came to know that in a WhatsApp Group, the accused uploaded video, where from he get the same.



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The video was recorded without her knowledge and spreaded on the social media. Hence, a case in Crime No.90/2024 registered against the petitioner for the offence under Section 354D of IPC., and Section 67 of Information Technology Act, 2000.

3. When the matter is taken up for hearing today, Mr.A.Balakrishnan, the learned counsel appearing for the petitioner would submit that the second respondent has lodged a complaint before the first respondent Police and on that basis, F.I.R. came to be registered in Crime No.90 of 2024, dated 07.05.2024, for the offences under Section 354D of IPC., and Section 67 of Information Technology Act, 2000, against the petitioner. The case is still under the investigation. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

4. Mr.S.Pugalendhi, the learned counsel appearing for the 2nd Respondent / Defacto complainant filed an Affidavit of the defacto complainant contending interalia that the defacto complainant and the petitioner/sole accused are being relatives, upon the intervention of family members and well wishers, they amicably settled the disputes. The petitioner / sole accused assured that he will not give any trouble to the defacto complainant and she is not wants to



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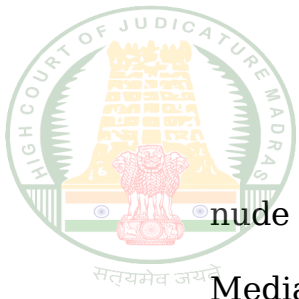
pursue the case any more and accordingly a written compromise memo has been executed between them on the following terms :-

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"1. The 2nd Respondent/ defacto-complainant herein agreed to withdraw the criminal complaint given by him against the petitioner herein in Crime No.90 of 2024, on the file of the 1st Respondent Police U/s. 354(D) IPC and Section 67 of Information Technology Act

2. Both the parties have voluntarily and mutually entered into and agreed to the terms of the above compromise agreement to resolve their dispute and maintain their good and cordial relationship in the family"

5. Mr.K.Sanjai Gandhi, the learned Government Advocate (crl.side) appearing for the 1st Respondent Police filed a Status Report and contending interalia would submit that on the complaint of the defacto complainant a case in Crime No.90/2024 registered against the accused for offences under section 354 (D) of IPC and Section 67 of Information Technology Act 2000. The 2nd respondent is a married woman and the petitioner/A1 is a relative of her and before 2 years, friendly relationship developed between both of them in a temple festival and in continuation, they conversed in video call and in the video call, the defacto complainant appeared in



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nude position and it was recorded by the petitioner and spreaded in Media.

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6. The learned Government Advocate further submitted that on receipt of complaint, the Investigation Officer took up the investigation on 07.05.2024,, visited the scene of occurrence on the same day at 19.00 Hrs., prepared rough sketch and observation mahazar in the presence of witnesses, enquired the defacto complainant and one Chidambarakumar, who has signed in the complaint as known witness. He also deposed the same. Then enquired one Ramkumar, who informed the petitioner/defacto complainant about the display of video in the "Dantanaka Suresh Whatsapp Group" and recorded his statement. Then he enquired the hearsay witnesses Arunachalam, Ramkumar, Manikandan and recorded their statements. Then on 12.03.2024 at 10.00 am., arrested the petitioner/A1 and in the presence of witnesses Ganesan and Kalimuthu he voluntarily gave a confession statement and seized the VIVO Y 15 blue colour cellphone from him and prepared Athatchi in the presence of above witnesses.

7. Adding further, the learned Government Advocate submitted that on 31.05.2024, the Investigation Officer arrested one Sureshkumar @ Dantanaka Suresh / A2 and in the presence of



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witnesses Sankaranarayanan and Chinna Esakkimuthu, gave voluntary confession statement. The Investigation Officer seized Redmi 12 C cellphone from A2, in presence of above witnesses and prepared the Athatchi. Then the Investigation Officer examined the Head constable Dhanushkodi and the one Devi, Sub-Inspector of Police, obtained statements from them. Latter, the Investigation Officer sent the Vivo Y 15 and Redmi 12C cellphone to the Regional Forensic Laboratory, Madurai on 30.05.2024. From the above it is clear that the Petitioner/A1 and Suresh Kumar/A2 were involved in the crime against a woman and therefore altered the Section of law from Section 354 (D) IPC., r/w Section 67 I.T.Act., into Section 354(c), 354(D) of IPC., r/w Section 66(E), 67, 67(A) of I.T. Act and filed the charge sheet before the learned Judicial Magistrate, Tenkasi.

8. The learned Government Advocate further submitted that as per the directions of this Court, a women police officer visited the residence of the defacto complainant in un-uniform, informed about the direction given by this court. But, the defacto complainant informed that to avoid some unnecessary problem, she has decided to compromise the issue. The learned Government Advocate also submitted that the accused persons involved in an heinous crime against a woman and if the case is compromised, in future, it may



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create unnecessary problems and again the defacto complainant will be put in to the clutches of law. If the compromise entered into the parties allowed to permit, it will be a bad example for the youth in the locality. Hence, prayed for dismissal of the petition.

9. I have heard the learned counsels appearing on either side and perused the materials available on record.

10. A Joint Memo of Compromise, dated 06.08.2024, has been filed before this Court, which has been signed by the petitioner, 2nd Respondent / Defacto Complainant and also by their respective counsels. The petitioner and the second respondent were also present in person before this Court and they were identified by the Respondent Police as well as respective counsels for the parties. This Court also enquired both the parties and satisfied that the parties have come to an amicable settlement between themselves.

11. In the instant case, the dispute is of personal in nature and now the parties had compromised. Where the parties have compromised the matter, the High Court has power to quash the complaint eventhough , the offences involved are not compoundable in nature. The legal position expressed by the Hon'ble Apex Court in the case of ***Gian Singh vs. State of Punjab and another***



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reported in **(2012)10 SCC 303** and **Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat** reported in **(2017) 9 SCC 641**

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were taken into consideration. In the light of the guidelines issued in the above said Judgments of the Apex Court, no useful purpose will be served in keeping the proceedings in Crime No.90 of 2024, pending on the file of the first respondent Police.

12. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.90 of 2024, on the file of the first respondent Police, is quashed not only against the petitioner, but also as against another person, who is also arrayed as accused in this case and the terms of Joint Compromise Memo, dated 06.08.2024, shall form part and parcel of this order. Consequently, the final report filed in C.C.No.39 of 2024 on the file of the Judicial Magistrate Court, Tenkasi, is also quashed. Consequently, the connected miscellaneous petition is closed.

21.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate Court,
Tenkasi,
- 2.The Inspector of Police
Alwarkurichi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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