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Court : Chennai Madurai

Decided On : Mar-09-2016

Judge : P.N. Prakash

Appeal No. : Crl.O.P. (MD) Nos .4177 of 2016 & 12287 of 2015

Appellant : Adishesan and Others

Respondent : State represented by the Inspector of Police, Madurai and Another

Judgement :

(Prayer: Petitions filed under Section 482 of Code of Criminal Procedure to call for the records in Crime No.19 of 2015 on the file of the 1st respondent and quash the same as illegal.)

1. These petitions have been filed seeking to quash the case registered in Crime No.19 of 2015 on the file of the 1st respondent, pursuant to the amicable settlement effected between the parties.

2. It is seen that a case in Crime No.19 of 2015 for the alleged offences under Sections 498(A), 294(b), 323 and 506(i) IPC r/w Section 4 of Dowry Prohibition Act, has been registered against the petitioners/accused in both petitions.

3. When these matters are taken up for hearing, the petitioners/accused and the second respondent, appeared in persons and their identifications were also verified by this Court, in addition to the confirmation of the identity of the parties by the Government Advocate (Crl.Side) through the respondent Police, namely, N.Jacqline, Sub-Inspector of Police, All Women Police Station, South Gate Police Station, Madurai. Learned counsel appearing for the parties also endorsed the identify of their respective parties.

4. The counsel appearing on either side filed a joint memo of compromise dated 07.03.2016 and an affidavit dated 09.03.2016 filed by the defacto complainant respectively duly stating that since the parties have arrived at an amicable settlement by way of compromise among themselves, the second respondent has agreed to withdraw the above case in Crime No.19 of 2015 pending on the file of the first respondent.

5. When such a situation arose in similarly placed matters in Crl.O.P.(MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, any compromise between the victim and the offender in relation to the offences clubbed with Special Enactment, like Arms Act, the Prevention of

Corruption Act, TNPPDL Act, TNPID 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. As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves. This Court feels that there cannot be any compromise in respect of the heinous and serious offences of mental depravity and in that case, the Court should be very slow in accepting the compromise. If the compromise is entertained mechanically by the Court, the accused will have the upper hand. The jurisdiction of this Court may not be allowed to be exploited by the accused, who can well afford to wait for a logical conclusion. The antecedents of the accused have also to be taken into consideration before accepting the memo of compromise and the accused, by means of compromise, cannot try to escape from the clutches of law.

6. Taking note of the judgments referred to supra, considering the nature of allegations and in view of joint memo of compromise dated 07.03.2016 and the affidavit dated 09.03.2016, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in Crime No.19 of 2015 on the file of the first respondent in respect of all the accused are hereby quashed.

Accordingly, these Criminal Original Petitions are allowed on the basis of the compromise entered into between the parties. The joint memo of compromise dated 07.03.2016 and the affidavit dated 09.03.2016 shall form part of this common order.

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