

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2015

Coram

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Criminal Original Petition No. 26351 of 2014

1. Vijay Babu
2. Viswanathan
3. Devi
4. Usha Rani

.. Petitioners

Versus

State represented by
Inspector of Police
All Women Police Station
Avadi, Chennai - 600 109

.. Respondent

Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure to enlarge the petitioners on Anticipatory Bail, in the event of their arrest in connection with the case in Crime Number not known on the file of the respondent.

For Petitioners	:	Ms. L. Srilekha
For Respondent	:	Mr. Arul
		Government Advocate (Crl.side)

ORDER

This Criminal Original Petition was listed for hearing yesterday and this Court passed an order recording the terms of compromise entered into between the parties on 15.04.2015. However, before signing the order dated 08.06.2015, this Court finds that clause No.2 of the memorandum of compromise entered into between the parties relating to waiver of cooling period for filing petition for dissolution of the marriage between them is legally impermissible. Therefore, this Petition is listed today under the caption "for clarification".

2. This Criminal Original Petition was referred for mediation to Tamil Nadu

Mediation and Conciliation Centre, High Court, Madras.

3. A communication dated 02.06.2015 of the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, enclosing a copy of its report dated 15.04.2015 has been received, wherein it is stated as follows:-

"Both the parties appeared before the Centre along with their counsel. Matter has been settled between them as per the terms cited in the Memo for compromise enclosed. Hence the matter is sent back to the Honourable Court"

4. As the parties have arrived at a settlement in terms of the agreement entered into between them, this Criminal Original Petition is listed for passing an order in terms of the settlement.

5. The Memorandum of Compromise dated 15.04.2015 has been entered into between the first petitioner and the defacto complainant. The memorandum of compromise has been duly signed by the parties in the presence of witnesses which reads as follows:-

"1. The parties of the first and second part have agreed to dissolve the marriage solemnised on 02.06.2014, by mutual consent and also agreed to present the petition under Section 13 (b) of Hindu Marriage Act, to the concerned jurisdictional court after expiry of one year from the date of marriage.

2. Both the parties resolve to seek waiver of cooling period of six months from the date of filing of mutual consent petition, since there is no possibility of change of mind and further the above settlement had been reached among themselves on account of mediation process by the Honourable High Court of Madras.

3. The Party of the First Part has agreed to pay Rs.1,00,000/- (Rupees One Lakh only) to the party of the second part at the time of filing the petition under Section 13 (b) of the Act, for divorce by mutual consent, towards the Sridhana articles left at the house of the First Part.

4. The Party of the Second Part has not claimed any maintenance from the party of the First Part as on this date.

5. The Party of the Second Part has confirmed that all the jewels put toher at the time of marriage by her parents are available with her.

6. A reading of the terms of compromise entered into between the parties

would indicate that the parties have agreed upon themselves to waive the cooling period required for filing the petition for divorce which is legally impermissible under law. When it is brought to the notice of the counsel for the petitioner, the learned counsel for the petitioner agreed that clause No.2 of the memorandum of compromise dated 15.04.2015 agreed and accepted by the parties be deleted. Having regard to the above submission of the counsel for the petitioner, the compromise memo dated 15.04.2015 entered into between the parties shall be read as follows:-

"1. The parties of the first and second part have agreed to dissolve the marriage solemnised on 02.06.2014, by mutual consent and also agreed to present the petition under Section 13 (b) of Hindu Marriage Act, to the concerned jurisdictional court after expiry of one year from the date of marriage.

2. The Party of the First Part has agreed to pay Rs.1,00,000/- (Rupees One Lakh only) to the party of the second part at the time of filing the petition under Section 13 (b) of the Act, for divorce by mutual consent, towards the Sridhana articles left at the house of the First Part.

3. The Party of the Second Part has not claimed any maintenance from the party of the First Part as on this date.

4. The Party of the Second Part has confirmed that all the jewels put toher at the time of marriage by her parents are available with her.

7. Having regard to the fact that the defacto complainant has agreed for a compromise and the parties have arrived at a settlement of the dispute before the Tamil Nadu Mediation and Conciliation Centre attached to this Court, by entering into a Memorandum of Compromise on 15.04.2015, this Court is inclined to record such compromise arrived at between the parties. Accordingly, In terms of the settlement arrived at between the parties which is recorded under the Mediation Agreement by the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras in its Report dated 15.04.2015, this Criminal Original Petition is disposed of recording the said compromise. The Mediation Agreement and the report of the Mediation Centre shall form part of this order.

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Note : Issue order copy on 10.06.2015

B. RAJENDRAN, J

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