

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2015

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

CrI.O.P.No.27487 of 2015

and

M.P.No.1 of 2015

1.VE Muthiah

2.Mrs.M.Visalakshi ... Petitioners/A3 & 4

Vs.,

1.The State,
rep. by Inspector of Police,
Central Crime Branch, Chennai City.

2.Mr.K.Seenivasan

3.A.Bhuvaneswari ... Respondents/Complainant
Defacto Complainant

(R3 impleaded by order
dt 06.11.2015 in M.P.No.2 of 2015)

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the First Information Report in Crime No.383 of 2014 on the file of the Inspector of police, Central Crime Branch, Chennai City and to quash the same, insofar as it relates to the petitioners herein (Accused No.3 and 4).

For Petitioners : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.AL.Ganthimathi

For Respondents: Mr.Shanmugha Sundaram, Senior Counsel
for Mr.P.G.Santhosh Kumar
(for impleading party)
Mr.C.Emalias, APP (For R1)
Mr.R. Amizhdhu (For R2)

ORDER

This Criminal Original Petition has been filed by the petitioner praying to quash the First Information Report in Crime No.383 of 2014 pending on the file of the Inspector of Police, Central Crime Branch, Chennai City, insofar as it relates to the petitioners herein (Accused No.3 and 4).

2. On 28.02.2014 the 2nd respondent herein lodged a complaint with the Deputy Commissioner of Police, Central Crime Branch, Chennai City, against one Mr. Muthiah and his wife Mrs. Visalakshi, (accused 3 & 4) and also one Mr. Azhagaeswaran and his wife Mrs. Bhuvana, stating that he had remitted a sum of Rs. 50,00,000/- through RTGS on 31.01.2013 to the Bank Account of M/s. Visalam Promoters through their account in Indusind Bank, Tirupur; and he also remitted a further sum of Rs. 30,00,000/- through RTGS to the said Account of M/s. Visalam Promoters on 04.02.2013; and paid a sum of Rs. 10,00,000/- by cash to Mrs. Bhuvana on 11.2.2013 and remitted a further sum of Rs. 10 lakhs through RTGS to the said Bank Account of M/s. Visalam Promoters on 19.03.2013, in all amounting to Rs. 1 crore. The said money was received by M/s. Visalam Promoters and its partners, on a promise that they would invest the said money in a property called 'Pandiayan Nagar, Tirupur Property' and they would get the property duly registered in the name of the 2nd respondent herein. But, neither the property was purchased nor the money was returned to the 2nd respondent. On the basis of the said complaint, the petitioners (A3 & A4) were arrested by the 1st respondent-Police on 28.10.2015 and remanded to the judicial custody by the learned Judicial Magistrate, Alandur on 29.10.2015.

3. Thereafter, with a view to amicably resolve the issues between the 2nd respondent and the petitioners herein, the 1st petitioner's father VE Vairavan had negotiated with the 2nd respondent and pursuant to the same, an amicable settlement has been arrived at between the 2nd respondent and the petitioners and they entered into a written Memorandum of Compromise dated 02.11.2015. Under the said Memorandum of Compromise, the disputes between the 2nd respondent and the petitioners herein have been settled and the petitioners have undertaken to pay a sum of Rs. 1 crore to the 2nd respondent, as set out in the said Memorandum of Compromise. Out of the said amount, 1st instalment of Rs. 25 lakhs has already been received by the 2nd respondent vide Cheque No. 000061 dated 2.11.2015 drawn on HDFC Bank, Bangalore issued in favour of Mrs. Vijayalalitha Mariaselvam, wife of 2nd respondent herein, which the 2nd respondent has admitted and acknowledged as received by him. Further, the petitioners have further undertaken to pay the balance amount of Rs. 75 lakhs, as set out in paragraph 1(ii) and 1(iii) read with paragraph 2 of the said Memorandum of Compromise.

4. As per the said Memorandum of Compromise, the 2nd respondent herein has agreed for quashing of the FIR in Crime No. 383 of 2014 on the file of the Inspector of Police, Central Crime Branch, Chennai City.

5. But, the learned Additional Public Prosecutor objected for quashing the First Information Report stating that if the FIR is quashed, it is difficult for the 1st respondent-Police to proceed against the accused 1 & 2.

6. The learned senior counsel for the 3rd respondent (impleaded party) has also opposed to quash the First Information Report in respect of the petitioners (A3 & A4), stating that the petitioners herein and the 2nd respondent (defacto-complainant) are the root cause for the incarceration of the 3rd respondent (impleading party) for nearly six days; now, colluding among themselves, without the knowledge of the 3rd respondent, the petitioners have filed the present petition to quash the First Information Report. There is no material to show the involvement of the accused 1 & 2 in this case. Thus, he opposed to quash the First Information Report as against the petitioners (A3 and A4).

7. Heard the submissions made on either side and perused the materials available on record.

8. It is the main allegation against the petitioners is that they have collected Rs.1 crores from the defacto-complainant and thereafter, they cheated him. Now, they are prepared to repay the entire amount to the defacto-complainant. The defacto-complainant has also no objection for quashing the First Information Report and to that effect, he has also filed an affidavit. If there is any dispute between the petitioners herein (A3 & and A4) and accused 1 & 2, they should work out their remedy in separately proceedings. Now, the dispute is fully settled between the petitioners and the defacto-complainant. Therefore, I am of the opinion, based on the Memorandum of Compromise entered into between the petitioners and the defaco-complainant, the First Information Report can be quashed in respect of the petitioners.

9. Accordingly, the impugned proceedings is quashed in respect of the petitioners herein and the Criminal Original Petition is allowed. Consequently, the petitioners are entitled to be released forthwith, who are in custody in connection with this case. Further, it is made clear that the Compromise entered into between the petitioners herein and the defacto-complainant will not in any affect the rights of the accused 1 & 2 as against the defeacto-complainant as well as the petitioners herein.

Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssv

Copy to_

- 1.The Superintendent of Prison,
Central Prison of Men, Puzhal, Chennai.
- 2.The Superintendent of Prison,
Central Prison of Women, Puzhal, Chennai.
- 3.The Inspector of Police,
Central Crime Branch, Chennai City.
- 4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.R. Amizhdhu, Advocate Sr.61562
+ 3 ccs to M/s. AL. Ganthimathi, Advocate Sr.61591
+1cc to Mr.P.G. SanthoshKumar, Advocate sr.62202[15/12/2015]

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