

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

Crl.O.P.Nos.413, 417, 32954 and 32955 of 2013
and 29038 of 2015 of 2015

and

M.P.Nos.1+1+1+1 and 2+2+2+2 of 2014

- 1.Burair Hyder ... Petitioner
(in Crl.O.Ps.413 and 32954/13)
- 2.Mrs.Rubab Hyder ... Petitioner
(in Crl.O.Ps.417 and 32955/13)
- 3.Bazagay Banu ... 1st Petitioner
(in Crl.O.P.No.29038 of 2015)
- 4.Alameen Hasaan raza ... 2nd Petitioner
(in Crl.O.P.No.29038 of 2015)

Vs

1. The State rep.by
Inspector of Police,
W-2, All Women Police Station,
Triplicane Range, Anna Salai,
Chennai - 600 002.
2. Faiza Fathima Ali ... Respondents
(Respondents in Crl.O.Ps.413,417,
32954 and 32955 of 2013 and 29038/15)

Prayer in Crl.O.P.No.413 of 2013: Petition filed under Section 482 of Cr.P.C. to quash the proceedings in summons dated 20.12.2012 issued by the learned XIII Metropolitan Magistrate, Egmore, Chennai pertaining to M.P.No.4674 of 2012.

Prayer in Crl.O.P.No.417 of 2013: Petition filed under Section 482 of Cr.P.C. to quash the proceedings in summons dated 20.12.2012 issued by the learned XIII Metropolitan Magistrate, Egmore, Chennai pertaining to M.P.No.4674 of 2012.

Prayer in Crl.O.P.No.32954 of 2013: Petition filed under Section 482 of Cr.P.C., to quash the charge sheet/final report and the entire criminal proceedings in C.C.No.7385 of 2013 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai.

Prayer in Crl.O.P.No.32955 of 2013: Petition filed under Section 482 of Cr.P.C. to quash the charge sheet/final report and the entire criminal proceedings in C.C.No.7385 of 2013 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai.

Prayer in Crl.O.P.No.29038 of 2015: Petition filed under Section 482 of Cr.P.C. to quash the entire proceedings in C.C.No.7385 of 2013 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai.

For Petitioners : Mr.Venkatesan
(Crl.O.Ps.413 and 417 of 2013)
Mr.M.Manivasagam & Associates
(Crl.O.Ps.32954 and 32955 of 2013
and 29038 of 2015)
For Respondents : Mr.M.Mohamed Rafi
for R.Joearand for R-1
Mrs.Badar Sayed for R-2

COMMON ORDER

When the matter came up for hearing today, the learned counsel appearing on either side submits that these cases were referred before the Mediation Centre on 26.06.2015 where both parties appeared and agreed to settle the dispute among themselves. The terms of the compromise has also been reduced into writing. The compromise memo reads as follows:-

JOINT COMPROMISE MEMO

It is humbly submitted as follows:-

1. It is submitted that the marriage between the petitioner and the second respondent was arranged by elders and solemnised on 16.10.2011 at Thousand Lights Mosque in Chennai. Out of the wedlock, they have only one child named Aeliya Zainab (female) born on 17.09.2012. Due to differences between them they are residing separately even prior to the birth of the child. On the basis of complaint given by the second respondent, a case in Crime No.5 of 2012 under

Section 498(A) and 324 of IPC was registered by W-2, All Women Police Station, Triplicane and the same is now pending as C.C.No.7385 of 2013 on the file of the learned XIII Metropolitan Magistrate Court at Egmore, Chennai. Mr.Burar Hyder challenging the above C.C.No.7385 of 2013, has preferred the above criminal original petition and his mother Rubab Hyder filed Crl.O.P.No.32954 of 2013, Brother in law Mr.Alameen Hasaan Raza and his wife Bazagay Banu filed Crl.O.P.No.29038 of 2015 seeking to quash the same.

2. It is humbly submitted that Mrs.Faiza Fathima Ali also made complaint on 29.11.2012 with the Protection Officer and the same is now pending as M.P.No.4674 of 2012 on the file of XIII Metropolitan Magistrate, Egmore, Chennai. Mr.Burar Hyder has filed Crl.O.P.No.413 of 2013 and his mother filed Crl.O.P.No.417 of 2013 seeking to quash the said proceedings.

3. It is submitted that pending the above proceedings, the petitioners and the second respondent arrived at a compromise to solve the entire issue with the following the terms of compromise.

TERMS OF COMPROMISE

(1) That Mrs. Faiza Fathima Ali has consented to received a sum of Rs.5,00,000/- (Rupees five lakhs only) from Mr.Burair Hyder and his family towards life time alimony. Mr.Burair Hyder has agreed to pay a sum of Rs.5,00,000/- (Rupees five lakhs only) by way of D.D. Bearing No.638563, dated 30.11.2013 drawn on Karnataka Bank Ltd., Bangaluru in favour of Mrs.Faiza Fathima Ali and hand over the same before the Hon'ble Court at the time of final hearing. On receipt of this amount Mrs.Faiza Fathima Ali release, discharge and relinquish Mr.Burair Hyder and his family members from all claims and liabilities including maintenance.

(2) That the agreed Mehar of 390 grams of gold which was promised at the time of marriage and discharged by Mrs.Faiza Fathima Ali. Mr.Burair Hyder and his family members are released and relinquished by Mrs.Faiza Fathima Ali from any sort of claim towards Mehar.

(3) That whatever the jewels given by Mr.Burair Hyder and his family to Mrs.Faiza Fathima

Ali will not be claimed by Mr.Burair Hyder or his family from Mrs.Faiza Fathima Ali.

(4) That the life time maintenance to the child is arrived at a sum of Rs.6,50,000/- (Rupees six lakhs and fifty thousand only). Out of this amount, Mr.Burair Hyder has agreed to pay a sum of Rs.1,50,000/- to Mrs.Faiza Fathima Ali to meet the immediate necessities of the child by way of D.D.No.502772, dated 01.12.2015 drawn on ICICI Bank, Chennai for a sum of Rs.1,50,000/- (Rupees one lakh fifty thousands only) in favour of Mrs.Faiza Fathima Ali and hand over the D.D. Before the Hon'ble Court at the time of final hearing. Mr.Burair Hyder has made a fixed deposit a sum of Rs.5,00,000/- with the Indian Bank, Perambur Branch, Chennai bearing F.D. Account No.6394580000 on 15.12.2015 in the name of minor child Aeliyz Zainab. The interest out of the deposit shall be utilised for the child by the mother and the fixed deposit amount shall not be taken until the child attain the age of maturity (18 years). The F.D. will be handed over to the mother on the date of hearing. Minor child Aeliya Zainab and Faiza Fathima shall not claim any future maintenance.

(5) That the custody and guardianship of the only child Aeliya Zainab will be with the mother, she will be the legal guardian of the minor child and she is entitled to take all decisions for the welfare of the child. The father is always at liberty to visit the child with the prior intimation to the mother.

(6) That Mrs.Faiza Fathima Ali received back all her articles including her cloths and personal belongings from Mr.Burair Hyder and his family.

(7) That the marriage between Mrs.Faiza Fathima Ali and Mr.Burair Hyder that took place on 16.10.2011 is dissolved by way of Mubaraat (Mutual consent) entering into a Deed of Mubaraat dated 14.12.2015 as per Islamic Law. The Deed is also filed along with this memo of compromise, the said deed may be treated as part and parcel of this MOU.

(8) That there is no other case proceedings before any Police, Court, Forum or authority. In view of this joint compromise, all the Litigation Proceedings and complaints came to an end. Mrs.Faiza Fathima Ali, the minor child Aeliya Zainab and her family members shall not have any claim, dispute of any nature against Mr.Burai Hyder and his family members and in vice-versa.

(9) That Mrs.Faiza Fathima Ali is consenting to quash the entire proceedings in C.C.No.7385 of 2013 and M.P.No.4674 of 2012 and also the proceedings on the file of the Protection Officer, Chennai by allowing Crl.O.P.No.413, 417, 32954 and 32955 of 2013 and 29038 of 2015.

(10) This Joint Compromise Memo along with deed of mubaraat shall be the forming part of the final order.

It is therefore prayed that this Hon'ble Court may please record this joint compromise memo and quash the entire proceedings in C.c.No.7385 of 2013 and M.P.No.4674 of 2012 both are pending on the file of XIII Metropolitan Magistrate Court at Egmore, Chennai and pas such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

Dated at Chennai on this 14th day of December,2015.

2. As per the compromise, the learned counsel appearing for the petitioners today handed over a demand draft for a sum of Rs.5,00,000/- (Rupees five lakhs only) in favour of Faiza Fathima Ali, bearing No.638563 dated 30.11.2015 drawn on Karnataka Bank Ltd., Bengaluru. Further, Mr.Burair Hydar has agreed to pay a sum of Rs.1,50,000/- to Mrs.Faiza Fathima Ali to meet the immediate necessities of the child. The learned counsel appearing for the petitioner also handedover the demand draft for a sum of Rs.1,50,000/- (Rupees one lakhs fifty thousands only) in favour of Faiza Fathima Ali, bearing No.502772 dated 01.12.2015 drawn on ICICI Bank, Chennai to Mrs. Faiza Fathima Ali in the open Court. It is brought to the notice that Mr.Burair Hydar has made a fixed deposit for a sum of Rs.5,00,000/- within the Indian Bank, Perambur Branch, Chennai bearing F.D. Account No.6394580000 on 15.12.2015 in the name of the minor child Aeliya Azinab. The xerox copy of the F.D. receipt also handed over to the learned counsel appearing for Mrs. Faiza Fathima Ali. Both demand drafts were received by the learned counsel appearing for the second respondent viz., Mrs. Faiza Fathima Ali.

3. In view of compromise arrived between the parties and as per the joint memo of compromise, these petitions are allowed and the proceedings in summons dated 20.12.2012 issued by the learned XIII Metropolitan Magistrate, Egmore, Chennai pertaining to M.P.No.4674 of 2012 and the charge sheet/final report as well as the entire criminal proceedings in

C.C.No.7385 of 2013 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai are quashed. Consequently, all connected M.Ps. are closed. The Joint Compromise Memo and Deed of Mubaraat dated 14.12.2015 shall form part of the common order.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The XIII Metropolitan Magi,
Egmore, Chennai.
- 2.The Inspector of Police,
W-2, All Women Police Station,
Triplicane Range,
Anna Salai, Chennai 600 002.
- 3.The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.R.Venkatesan, Advocate, S.R.Nos.1204 & 1203
+3cc's to Mr.M.Manivasagam & Associates, Advocate,
S.R.Nos.1199 to 1201
+1cc to M/s.Geetha Ramaseshan, Advocate, S.R.No.1173

Cr1.O.P.Nos.413,417,32954
and 32955 of 2013 and
Cr1.O.P.No.29038 of 2015

SAI (CO)
CA(28/01/2016)

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