

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved On : 02.03.2017

Judgment Pronounced On : 04.10.2017

CORAM

THE HONOURABLE MR.JUSTICE **S.BASKARAN**

Crl.O.P.No.26940 of 2016

S.Martin

... Petitioner/2nd Accused

vs.

1.State rep. by
The Inspector of Police,
District Crime Branch,
Tiruppur
Tiruppur District.

... 1st Respondent/complainant

2.P.K.Ganeshwar

... 2nd respondent/
Defacto complainant

Criminal Original Petition has filed under Section 482
Crl.P.C. to record the compromise and quash the proceedings in
C.C.No.393 of 2011 on the file of the Judicial Magistrate No.I,
Tiruppur.

For Petitioner : Mr.P.S.Raman, Senior Counsel for
Mr.R.Ganasekaran

For Respondent : Mr.E.Raja
Additional Public Prosecutor For R-1.

Mr.T.Balaji for R-2

JUDGMENT

The above mentioned Criminal Original Petition has been preferred under Section 482 Cr.P.C. seeking to quash the proceedings in C.C.No.393 of 2011 pending on the file of the learned Judicial Magistrate No.I, Tiruppur, wherein the petitioner/2nd accused along with other co-accused/A1 is facing prosecution under Sections 406, 418, 468, 471, 420, 477(A) and 120(b) IPC.

2. The criminal law was set in motion by the second respondent herein by lodging complaint with the first respondent police, who registered a case in Crime No.1 of 2001 on 23.01.2011 under Sections 406, 418, 468, 471, 420, 477(A) and 120(b) IPC. The petitioner/A-2 and other accused are alleged to be involved in real estate business and they induced the complainant/2nd respondent herein also to join them to invest in real estate business and in that regard, the second accused in this case conspired and cheated the complainant/2nd respondent herein to the extent of Rs.3 crores and as the accused failed to repay the amount, the complaint was lodged by the second respondent herein against them. On the basis of the complaint given by the second respondent, the investigation was taken up by the first respondent and after registering the case in Crime No.1 of 2011 and on

completion of investigation charge sheet was filed under Sections 406, 418, 468, 471, 420, 477(A) and 120(b) IPC., and the same was taken cognizance by the learned Judicial Magistrate No.I, Thiruppur in C.C.No.393 of 2011 and the same is pending.

3. While so, the petitioner/A2 herein, after obtaining Anticipatory Bail in CrI.O.P.No.12361 of 2011 from this Court, filed CrI.O.P.No.13269 of 2011 to quash the first information report against him, but the same was dismissed as infructuous as the final report has already been filed. However, the petitioner states that subsequently, at the instance of mediators, the dispute mentioned in the charge sheet filed against him has been settled with the second respondent/complainant and the compromise memo entered into between them on 23.07.2016 at Coimbatore. The copy of the said compromise memo is enclosed with this petition. In the meanwhile, the petitioner has filed the contempt petition No.1950 of 2011 on the file of this Court against the first respondent herein and the said contempt petition is still pending. The petitioner states that in view of the compromise entered into between himself and complainant/2nd respondent, the Criminal Case in C.C.No.393 of 2011 pending on the file of the learned Judicial Magistrate No.I, Thiruppur is to be quashed and he is undertaking to withdraw the Contempt Petition No.1950 of 2011 pending on the file of this Court.

4. The complainant/2nd respondent herein admitted the factum of entering into memo of compromise with the petitioner herein. In the counter filed by the second respondent/complainant herein, it is stated that on 23.07.2016, the compromise memo was entered into between the second respondent/complainant and the petitioner/second accused, whereby a sum of Rs.3 crores (the claim amount as per charge sheet) was received by the complainant/second respondent herein and as such he has stated no objection for dropping further proceedings in respect of this petitioner/A-2 in C.C.No.393 of 2011 pending on the file of the learned Judicial Magistrate No.I, Thiruppur.

5. Admittedly, the entire claim amount as per the charge sheet filed in this case as mentioned above, has been paid and settled by the petitioner/A-2 and as such nothing survives in the case in C.C.No.393 of 2011 to be tried. In such circumstances, it will be waste of time and no fruitful purpose would be served by keeping the said case pending on the file of the trial Court and ordering the petitioner herein to face the ordeal of trial. As stated above, the entire sum of Rs.3 crores mentioned in the charge sheet having been paid and settled by the petitioner/second accused and as the complainant/2nd respondent has no objection to the plea of the petitioner, this Court is inclined to entertain the petition as other

wise the petitioner will have to face the ordeal of trial which will cause unnecessary trouble to the petitioner. In such circumstances, this Court is inclined to entertain the petition and the proceedings in C.C.No.393 of 2011 is to be closed and the point is answered accordingly.

6. In the result, the Criminal Original Petition is allowed and the proceeding in C.C.No.393 of 2011 pending on the file of the learned Judicial Magistrate No.I, Thiruppur in respect of petitioner/2nd accused alone is quashed.

rrg

04.10.2017

To

1.The Inspector of Police,
District Crime Branch,
Tiruppur, Tiruppur District.

2.The Public Prosecutor,
High Court, Madras.

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S.BASKARAN. J.,

rrg



Judgment in
Crl.O.P.No.26940 of 2016

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