



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.09.2017

CORAM:

THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No.2553 of 2016

WEB COPY

1.Abdul Kareem
2.Kalifullah

... Petitioners / Accused

-vs-

1.The Sub Inspector of Police,
Cantonment Police Station,
Trichy,
Trichy District.

: 1st Respondent / Complainant

2.B.Suresh Babu

: 2nd Respondent / De-facto
Complainant

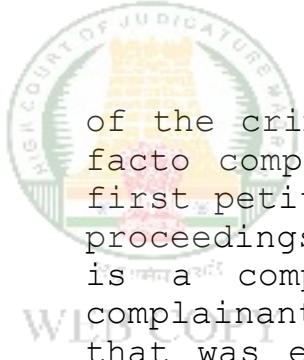
Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.259 of 2011 on the file of Judicial Magistrate, No.1, Trichy and quash the same.

For Petitioner : Mr.J.M.Abdul Rahman
For Respondent 1 : Mr.K.Anbarasan
Government Advocate (Crl.Side)
For Respondent 2 : Mr.A.V.Rajasekaran

O R D E R

This Criminal Original Petition is filed for quashing the proceedings in C.C.No.259 of 2011 on the file of the Judicial Magistrate No.I, Trichy.

2.A complaint was lodged by the second respondent as against the petitioners in Crime No.685 of 2010 for offences punishable under Sections 341, 294(b) and 506(i) of I.P.C. The charge sheet was filed. Thereafter, the case was taken on file in C.C.No.259 of 2011. It is not in dispute that the charge sheet clearly discloses the offence alleged to have been committed by the petitioners. The only ground on which the petitioners argued this Criminal Original Petition is that there was a compromise between the petitioners and the wife of the first petitioner. Since a huge amount was also paid to the first petitioner's wife under the compromise, it was suggested by the learned counsel for the petitioners that the compromise was also in respect of the proceedings in C.C.No.259 of 2011. Though the compromise memo since was entered into between the first petitioner and his wife is produced before this Court that does not refer to the withdrawal



of the criminal proceedings. As a matter of fact, though the de-facto complainant in this case was an Advocate on record for the first petitioner's wife, he cannot be considered as a party to the proceedings in which the compromise was recorded. Even if there is a compromise, the same is not binding on the de-facto complainant and the petitioners cannot rely upon such compromise that was entered into between the first petitioner and his wife. The only other ground that is raised in this petition is that the complaint was only at the instance of first petitioner's wife and that therefore, the charge sheet in C.C.No.259 of 2011 is liable to be quashed. This contention can never be accepted. The petitioners though dispute the incident as has come up with a different version, this Court cannot entertain the quash petition on factual issues. It is open to the petitioners to establish his case at the time of trial. In that view of the matter, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.I, Trichy.
- 2.The Chief Judicial Magistrte, Trichy7.
- 3.The Sub Inspector of Police,
Cantonment Police Station,
Trichy,
Trichy District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.ABDULLAH RAHMAN, Advocate, SR.80298

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20.09.2017

SRM

KK/JC/SAR 1/22.09.2017/2P-6C