

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P. No.25214 of 2018

- 1 Iswarya Women's Hospital and Fertility Center
represented by its owner and Director
Dr. S. Chandralekha
238 Avarampalayam Road
Gandhipuram
Coimbatore
- 2 Dr. S. Chandralekha
Owner and Director
Iswarya Women's Hospital and Fertility Center
238, Avarampalayam Road
Gandhipuram
Coimbatore
- 3 Dr. Geetha Bharathi
...Petitioners/Accused 1 to 3
- vs.
- 1 State through
the Inspector of Police
City Crime Branch
Coimbatore City
(Investigating Officer in C2 (Old B4)
Race Course P.S. Cr. No.768 of 2014)
...1st Respondent/Complainant
- 2 M. Devendran
...Respondent/Defacto/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to quash C.C. No.67 of 2016 pending on the file of the
Judicial Magistrate Court No.III, Coimbatore.

For petitioners Mr. P.H. Manoj Pandian
For R1 Mrs. M. Prabhavathi
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been preferred seeking to quash C.C.No.67 of 2016, pending on the file of the Judicial Magistrate Court No.III, Coimbatore.

2 On the complaint lodged by the second respondent that there had been medical negligence in the treatment given to his new born son by the petitioners, the first respondent police registered a case in Cr. No.768 of 2014 and after completing the investigation, filed a charge sheet in C.C. No.67 of 2016 before the Judicial Magistrate Court No.III, Coimbatore, under Sections 120-B, 468 and 338 IPC against the petitioners herein, for quashing which, this Criminal Original Petition has been preferred on the ground that the parties have arrived at a compromise.

3 Today, the second respondent/de facto complainant and his wife Sowmya are present with their son and are identified by Ms. R. Bavadharani, Advocate (Enrolment No.1834 of 12013).

4 The petitioners have entered into a Memorandum of Understanding with the second respondent/de facto complainant on 08.06.2018, wherein, it is stated as follows:

"NOW, THEREFORE, THIS MEMORANDUM OF UNDERSTANDING
WITNESSETH:

1 The party of the first part has agreed to pay sum of Rs.50,00,000/- (Rupees fifty lakhs only) by way of DD/RTGS to the party of the second party after:

a Withdrawal of all allegations and the complaint in C.C. No.120 of 2015 on the file of the State Consumer Disputes Redressal Commission, Chennai.

b Quashing/Withdrawal of C.C. No.67 of 2015 on the file of the Judicial Magistrate - III, Coimbatore.

2 The party of the second part shall have no further claim against the party of the first part and/or Dr. Deepa and/or Dr. Geetha Barathi.

3 It has been expressly agreed between the parties that all allegations made by the party of the second part against the party of the first part shall stand withdrawn and none shall survive on signing of this Memorandum of Understanding.

Neither party has been compelled or coerced or unduly influenced in signing this MOU."

5 The learned counsel for the petitioners submitted that the Memorandum of Understanding in original has been submitted to the Court, a copy of which has been enclosed in the typed set or papers.

6 The petitioners have handed over a demand draft bearing no.790737 dated 22.10.2018 drawn on Lakshmi Vilas Bank, Puliakulam Branch, Coimbatore, for a sum of Rs.50,00,000/- to the second respondent/de facto complainant and he has also acknowledged receipt of the same.

In view of the above, Criminal Original Petition is allowed and the proceedings in C.C. No.67 of 2016 on the file of the Judicial Magistrate Court-III, Coimbatore, is quashed as against all the accused on condition that petitioners 2 and 3 pay a sum of Rs.1,000/- each (Rs.1,000 x 2= Rs.2,000/-) as costs to the credit of the Chief Justice Relief Fund (payable in Accounts Section of the High Court Registry), within a period of two weeks from the date of receipt of a copy of this order and file a photocopy of the receipt along with a memo reporting compliance in the Registry.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1 The Inspector of Police
City Crime Branch
Coimbatore City
- 2 The Judicial Magistrate No.III
Coimbatore
- 3 The Public Prosecutor
High Court of Madras
Chennai 600 104
4. The Sub Assistant Registrar,
Accounts Section, High Court,
Madras.

+lcc to Mr.K.M.Mrithunjayan, Advocate, S.R.No.74269

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NRJK(CO)
GSP(14/11/2018)