



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.839 of 2017
and
Crl.M.P.(MD)No.10349 of 2017

Ramasamy : Petitioner/ Respondent/
Defacto Complainant
Vs.

1.State through the
Sub-Inspector of Police,
Sivakasi Town Police Station,
Sivakasi,
In Crime No.65 of 2016,
Virudhunagar District.

... 1st Respondent/ Petitioner/
Complainant

2.S.Murugan
3.T.Mahalingam

: Respondents 2 and 3

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records relating to the order dated 15.05.2017 made in Crl.M.P.No.2830 of 2017 in C.C.No.236 of 2017 on the file of the learned Judicial Magistrate, Sivakasi and set aside the same by allowing this Criminal Revision Petition.

For Petitioner	: Mr.J.Senthil Kumaraiah
For Respondent No.1	: Mrs.S.Bharathi, Government Advocate (Crl.side)
For Respondent No.2	: No Appearance
For Respondent No.3	: Mr.M.Daniel Manoharan

ORDER

On 31.01.2018, this Court passed the following order:

"On the complaint lodged by Ramasamy, the petitioner herein, the respondent police registered a case in Crime No.65 of 2016 on 04.02.2016 under Sections 407, 420 read with Section 381 IPC against Murugan (A-1) and Sikkandhar Basha (A-2).

2. It is the case of the defacto complainant that he is the owner of a Diesel Tanker Lorry bearing Registration No.TN-72-AP-3769 and had appointed Murugan (A1) as his



driver for the lorry. One Thirumalaikumar had taken the contract for supply of diesel from Indian Oil Corporation to Kaleeswari Fireworks in Sivakasi, for which purpose, the said Thirumalaikumar had requisitioned the lorry of the defacto complainant. While so, on 06.11.2015, the lorry of the defacto complainant was sent from the Indian Oil Corporation to Kaleeswari Fireworks with 12,000 litres of diesel and it was driven by Murugan (A1). The lorry reached Kaleeswari Fireworks, where it was found that there was only 5,000 litres of diesel and 7,000 litres of water. Therefore, Kaleeswari Fireworks detained the lorry and informed Thirumalaikumar. When Thirumalaikumar informed to this petitioner, this petitioner gave a complaint, based on which, First Information Report has been registered as stated above.

3. During the course of investigation, it came to light that Murugan (A1), the driver of the lorry, handed over the lorry to Sikkandhar Basha (A2). Sikkandhar Basha, in collusion with one Vignesh, has sold the diesel illegally to the owner of MFS Petrol Bunk on 06.11.2015 for a sum of Rs.1,10,000/- (Rupees One Lakh and Ten Thousand only). After removing substantial portion of the diesel, they have filled it up with water and have given delivery to Kaleeswari Fireworks. While that being the case, the police completed the investigation and filed a final report before the learned Judicial Magistrate, Sivakasi only against Sikkandhar Basha leaving out Murugan and Mahalingam. Therefore, the complainant filed a protest application in Cr.M.P.No.2830 of 2017 in C.C.No.236 of 2017 objecting to the deletion of Murugan and Mahalingam in the charge sheet. However, the learned Judicial Magistrate, Sivakasi has dismissed Cr.M.P.2830 of 2017 on 15.05.2017, aggrieved by which, the defacto complainant is before this Court.

4. On the directions of this Court, Mr.K.Sundara Pandiyan, Inspector of Police, Sivakasi Town Police Station, Mr.T.Sekar, Special Sub-Inspector of Police, Sivakasi Town Police Station are present. They have produced Mahalingam before this Court.

5. On a reading of the final report, this Court is indeed shocked as to the perfunctory manner, in which, the investigation of the case has been conducted by the police by excluding Murugan and Mahalingam from the charge sheet. The act of Mahalingam in purchasing diesel illegally would also entail cancellation of his petrol bunk licence by the Indian Oil Corporation.

6. Mahalingam seeks time to engage an advocate and represent his case. He is bound over to appear before



this Court either in person or through counsel on 09.02.2018.

7. Call on 09.02.2018.

8. Registry is directed to draft this order and send a copy to the Inspector of Police, Sivakasi Town Police Station.

9. Interim stay already granted is extended till then."

2. Today, the petitioner and Mahalingam (third respondent) have filed a joint memo of compromise dated 07.03.2018, wherein, in Paragraph No.2, it is stated as follows:

"It is humbly submitted that the petitioner and the 3rd respondent had made compromise with each other and so the 3rd respondent had come forward to pay a sum of Rs.3,00,000/- (Three Lakhs only) for the loss incurred by the 3rd respondent to the petitioner. And to that effect when the above matter came up for hearing on 06.03.2018, the 3rd respondent had issued a Demand Draft dated 26.02.2018 in favour of the petitioner for sum of Rs.3,00,000/- (Three Lakhs Only) bearing No.583298 to the petitioner in open court and this Hon'ble Court had directed both the petitioner and the 3rd respondent to file joint compromise memo. Accordingly we filing this Joint Compromise Memo before this Hon'ble Court. I further submit that, since compromise has been arrived between the rival parties and so the matter adjudicating before the Trial Court is merely wasting of prestigious time of Court of Law."

3. In view of the above, this Criminal Revision Case is dismissed. The trial as against Sikkandhar Basha in C.C.No.236 of 2017 shall proceed in accordance with law. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Sivakasi.

2.The Sub-Inspector of Police,
Sivakasi Town Police Station,
Sivakasi, Virudhunagar District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.J.SENTHIL KUMARAIAH, ADVOCATE, SR NO.53553

Order made in
Cr1.R.C. (MD) No.839 of 2017
07.03.2018

SML

MS/SV-MMS/SAR-1/27.03.2018/4P.5C