

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.20005 of 2011 and
Crl.M.P.No.1 of 2011

Rajesh Mardia

... Petitioner

Versus

1.State Represented by,
The Inspector of Police,
Team X, Central Crime Branch,
Egmore,
Chennai 600 008.
(X.Crime No.819 of 2008).

2.S.H.Manoj Sharma
M/s.Sabura Impex Pvt. Ltd.,
Regd. Office at,
519/1/11 Shahdara Industrial Area,
Sansar Machine Compound,
G.T.Road, Shahadara,
Delhi-110 095.

... Respondents

[Impleaded the 2nd respondent as per
the order of this Court dated
24.03.2017 in Crl.M.P.No.2 of 2011
in Crl.OP.No.20005 of 2011.]

PRAYER: Criminal Original Petition filed under Section 482 of
the Code of Criminal Procedure, to call for the records relating
to C.C.No.2494 of 2009, pending on the file of III Metropolitan
Magistrate, George Town, Chennai and quash the same.

For Petitioner : Mr.V.Lakshmi Narayanan
For 1st Respondent : Mr.Hari Hara Arun Somasankar
Government Advocate [Crl. Side]

ORDER

The petitioner, who is the 1st accused in C.C.No.2494 of
2009, before the learned III Metropolitan Magistrate George
Town, Chennai has filed the above quash petition to quash the

proceedings in C.C.No.2494 of 2009.

2. An FIR in Crime No.819 of 2008 has been registered by the Inspector of Police, Team X, Central Crime Branch, Egmore, Chennai against the petitioner/A1 and 2nd accused for the offence under Sections 420 r/w 34 of IPC. On completion of the investigation, a charge sheet has been filed before the learned III Metropolitan Magistrate, George Town, Chennai and thereafter, the case has been transferred to the Special Court for CCB/CBCID, Egmore and the same was numbered as C.C.No.6980 of 2016 for the same offence.

3. The case of the prosecution is that the petitioner/A1 and 2nd accused had joined and colluded together and sold the duplicate cables in the trade name of Marison of Sabura Impext Private Limited and misled the public and made monetary loss to the real Marison owner. The defacto complainant is the 2nd respondent herein, based on his complaint, investigation has been conducted which disclosed that on 29.11.2008, when a raid was conducted on the premises of the accused found that goods bearing trade Marison deceptively being sold out, which are the duplicate products of Sabura Impex Private Limited and seized these articles under the cover of Mahazar in the presence of the witnesses. Based on the confession statement of the 2nd accused, it came to know that the petitioner is the owner of the godown and the 2nd accused is its Manager.

4. The contention of the learned counsel for the petitioner is that the defacto complainant represented by its Director Manoj Sharma, filed a suit before the learned Senior Civil Judge, Karkardooma Courts, Delhi in Civil Suit No.22 of 2008 against the petitioner/A1 herein and M/s.Balaji Cables for permanent injunction and rendition of accounts. The subject matter of the suit and the case in X.Crime No.819 of 2009 are one and same. He further submitted that the defacto complainant entered into a Memorandum of Understanding and Compromise Deed executed with the petitioner on 11.12.2008 and as per the Memorandum of Understanding, it was agreed upon among other issues that the defacto complainant shall cooperate and compound the FIR in Crime No.819 of 2008 and also shall give further statement as required according to law in the competent Court. Further, he would cooperate and make necessary statement for the Court in releasing the seized goods in Crime No.819 of 2008. In pursuant to this, subsequently, the goods which were seized in the said Crime was handed over. Therefore, the learned Senior Civil Judge, Karkardooma Courts, Delhi recording the Memorandum of Understanding, closed the proceedings in Civil Suit No.22 of 2008.

5. The learned Government Advocate [Cr1. Side] submitted

that the respondent Police had taken up investigation and immediately went to the godown premises of the accused and seized the articles and also arrested the 2nd accused in this case and completed the investigation and charge sheet has been filed. He further submitted that the petitioner/A1 had obtained Anticipatory Bail. Further, he submits that, in view of the limited prayer sought for by the learned counsel for the petitioner that due to the compromise arrived between the parties, the continuation of the proceedings in C.C.No.2494 of 2011 would serve no purpose.

6. Considering the rival submissions and the on perusal of materials, it is found that the compromise entered between the parties on 11.12.2008 and the competent Court had taken into consideration of the same and passed an order in Civit Suit No.22 of 2008.

7. In view of the compromise entered into between the parties, the proceedings against the petitioner is quashed and further keeping the proceedings pending against the 2nd accused would not serve any purpose. Hence, the proceedings as against the 2nd accused is also quashed.

8. Hence, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Metropolitan Magistrate,
Chennai.

2.The III Metropolitan Magistrate,
George Town, Chennai.

3.The Inspector of Police,
Team X, Central Crime Branch,
Egmore,
Chennai 600 008.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Lakshmi Narayanan, Advocate, S.R.No. 12196

Crl.O.P.No.20005 of 2011

PP(CO)
GN(20/03/2019)



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