

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.14514 of 2014
and M.P.No.1 of 2014

1.Kannan
2.Baskhar
3.Arivazhagan
4.Sameem Askar
5.Sitaraman
6.Saravanan
7.Vetrivelan
8.Devendran

.... Petitioners/Accused 1 to 8

Vs

State by:

1.The Inspector of Police,
J-6, Tiruvanmiyur Police Station,
Chennai.
(Crime No.745 of 2012)

2.Abirami

... Respondents/Informant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash all further proceedings as against the petitioners in C.C.No.2157 of 2014 pending on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners: Mr.R.Rajarithnam

For Respondents: Mr.M.Mohamed Riyaz,
Additional Public Prosecutor for R1
No Appearance for R2

O R D E R

This Criminal Original Petition has been filed seeking to call for the records and quash all further proceedings as against the petitioners in C.C.No.2157 of 2014 pending on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai.

2.The learned counsel for the petitioners would submit that the case of the prosecution is that one Abirami of Barathi Nagar, Tiruvanmiyur, the second respondent herein, had given a complaint to the first respondent alleging that she had taken a

mortgaged loan for 15 lakhs and the EMI was Rs.28,000/- per month from "National Trust Housing Finance Ltd.," (NATRUST) and she had committed some default last year due to her husband's health reason. The company for the default had imposed a penalty and was demanding more money. On 18.04.2012 at about 07.00 A.M it is alleged that the employees of the company had shouted at her using filthy language due to which the informant felt ashamed and humiliated for which the above case has been filed.

2.1.The petitioners submit that one Mrs.Radha and her son Rajiv and his wife Mrs.Arthi R.Nair were the applicant and co-applicants who had availed housing loan from National Trust Housing Finance Ltd., to a sum of Rs.15,00,000/- (Rupees Fifteen lakhs) during the year 2008 for a period of 8 years and the EMI was around Rs.28,000/- per month. The loanees had availed the loan during March 2008 and till March 2012 they had paid around Rs.12.61 lakhs and they had a balance in principal around Rs.11,01,106/- (Rupees Eleven lakhs One thousand one hundred and six only) and the EMI outstanding as on March 2012 was Rs.1,53,038/- (Rupees One lakh fifty three thousand thirty eight only). Since the loan account during March 2012 was in the NPA bucket, the petitioners who are employees of National Trust Housing Finance Ltd., had taken steps to recover the dues as per the RBI guidelines.

2.2.Thereafter, the petitioners went to the second respondent for amicable settlement and pursuant to the settlement it was agreed and the outstanding loan amount of Rs.12,55,144/- was returned and the original title documents of the property given as collateral security was also handed over to the lender, who has received the same. Pursuant to the submission, the second respondent submitted a letter to the first respondent on 05.05.2012 to withdraw the complaint. Therefore, now without considering the said facts and circumstances, the first respondent filed a final report and the same was also as taken on file in C.C.No.2157 of 2014. Therefore, he prayed for quashing the FIR.

3.Though the notice was served to the second respondent, no one would appear on behalf of the second respondent.

4.The learned Additional Public Prosecutor would submit that after the complaint, the petitioner and the second respondent have entered into a compromise and also settled the issue, even though, the first respondent filed a final report for the offences under Sections 141, 147, 294(b), 506(i) of IPC r/w 34 of IPC as against the petitioners.

5.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the first respondent.

6.It is seen that the complaint originally lodged by the second respondent and after completing the investigation the first respondent filed the final report for the offences under Sections 141, 147, 294(b), 506(i) of IPC r/w 34 of IPC in C.C.No.2157 of 2014 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai.

7.It is seen that before filing the final report, the matter has been compromised between the petitioners and the second respondent and the original documents returned. It is also seen that letter dated 05.05.2012 issued by the second respondent to the first respondent stating that she withdraw the complaint given as against the petitioners. Without considering the said facts and circumstances the first respondent completed the investigation and filed the final report. Therefore, to meet the ends of justice, the complaint cannot be sustained as against the petitioners.

8.Considering the above facts and circumstances, this petition is allowed and the order in C.C.No.2157 of 2014 pending on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai is set aside and quashed. Consequently, the connected Miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

rna

To

1.The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

2.The Inspector of Police,
J-6, Tiruvanmiyur Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.C.Sudharshan, Advocate sr 19677

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SP(19/03/2019)