

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.29251 of 2014

and

M.P.No.1 of 2014

1. M/s.SOLAR DESIGNS PRIVATE LTD.,
Rep. by its Director, Mr.Apath Sakaayem,
No.602, Parsan Manere, 1 A Wing 3rd Floor,
Anna Salai, Chennai - 600 006.
2. Mr.Apath Sakaayem
3. Mrs.C.Sumathi ... Petitioners/A1 to A3

Vs.

1. The State, Rep. by
The Inspector of Police,
E2 Royapettah Police Station,
Chennai - 600 014. ... 1st Respondent/
Complainant
2. M/s. RELIGARE FINVEST LIMITED,
Rep. by its Authorised Signatory,
Mr.C.Ramesh,
Senior Mananger,
No.10 & 12, 5th Floor,
Venkat Narayana Road,
T.Nagar, Chennai - 600 017. ... 2nd Respondent/
Defacto Complainant

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the FIR registered as Crime No.2119 of 2014 dated 29.09.2014 filed against the petitioners for offences under Sections 406 and 420 IPC by the first respondent and pass such further or other order or orders as this Court may deem fit.

For Petitioners : Mr.V.Jayachandran for
M/s.V.Jayachandran Associates

For R1 : Mrs.M.Prabhavathy,
Additional Public Prosecutor

For R2 : Mr.R.C.Paul Kanagaraj

O R D E R

This Criminal Original Petition is filed to quash the FIR registered as Crime No.2119 of 2014 dated 29.09.2014 filed against the petitioners for offences under Sections 406 and 420 IPC by the first respondent.

2.The petitioners are A1 to A3 in Cr.No.2119 of 2014 filed this quash petition. This case came to be registered by the first respondent on the direction of the XVIII Metropolitan Magistrate, Saidapet, Chennai for the offences under Sections 406 and 420 IPC.

3.The contention of the learned counsel for the petitioners is that the transaction between the petitioners and the defacto complainant is only a private transaction and purely a commercial transaction which has been given a criminal colour and managed to get a registered FIR in this case.

4.On the facts there is no case made against the petitioners under Sections 406 and 420 IPC. During the pendency of the Criminal Original Petition, the matter was referred to the Mediation Centre and in the Mediation Centre, the Memorandum of Understanding was arrived at on 09.11.2018. Prior to the Memorandum of Understanding, the entire due amount has been paid.

5.The relevant portion of the Memorandum of Understanding is extracted below:

"(1) WHEREAS the party of the FIRST PART extended financial assistance under a scheme of Unsecured Loan to the parties of the SECOND PART at Rs.50,00,000/- (Rupees Fifty Lakh Only) vide letter of sanction dated 07/11/2013, which loan amount was repayable with interest in equated monthly installment at Rs.4,61,977/- (Four Lakh

Sixty One Thousand Nine Hundred and Seventy Seven Only), spread over a period of 12 months commencing from 01/12/2013 and ending upto 01/11/2014 and the loan account was assigned XSMESA100049773.

(2) WHEREAS the party of the SECOND PARTS, as per the above terms were making periodical installments, after making few installment, started to default in making subsequent 4 EMIs and hence, the party of the FIRST PART, initiated proceedings under section 156(3) of the Code of Criminal Procedure, 1973 and obtained a direction to registered an FIR, based upon which E2, Royapettah Police, Chennai registered the FIR in Crime No. 2119/2014 for offences under section 406 & 420 of Indian Penal Code as against the parties of the SECOND PARTS.

(3) WHEREAS the party of the SECOND PARTS, after registration of the above FIR negotiated with the party of the FIRST PART to amicably settle the loan account and accordingly, the party of the FIRST PART issued a letter of settlement dated 28/12/2015 to pay the defaulted EMIs before 31/03/2016 and accepting the said letter of settlement, the parties of the SECOND PARTS have made prompt payment and completely settled the loan account to the satisfaction of the party of the FIRST PART.

(4) WHEREAS, the party of the FIRST PART has assured the parties of the SECOND PARTS that the loan account has been fully settled and hence the party of the FIRST PART has no objection quashing the said FIR in Crime No.2119/2014 on the file of E-2, Royapettah Police Station, Chennai filed under CrI.O.P.No.29251/2014, pending on the file of the Hon'ble, High Court of Judicature, Madras, CHENNAI.

(5) WHEREAS the party of the FIRST PART has given consent for the party of the SECOND PART to quash the CrI.O.P.No.29251/2014, in view of the complete settlement of the said loan account.

(6) WHEREAS the party of the FIRST PART shall give all assistance and extend its helping hands for quashing of the FIR in Crime No. 2119/2014, on the file of the E-2 Royapettah

Police Station, Chennai and allowing of the
Crl.O.P.No.29251/2014."

6.Further to it, the learned counsel for the second respondent/defacto complainant had also given a letter to the first respondent/police about the settlement arrived between the petitioners and the defacto complainant.

7.The learned counsel for the petitioners further submitted that it is only a private transaction and purely a commercial private transaction has been given a criminal colour in this case.

8.In view of the guidelines given in the case of Gian Singh Versus State of Punjab & Another reported in (2012) 10 SCC 303, wherein the Hon'ble Supreme Court has observed as follows:

"Where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

9.The dispute in this case is purely private between individuals, there is no impediment to quash and this case falls under one of the above guideline. In view of the above, this Court quashes all further proceedings in Crime No.2119 of 2014, dated 29.09.2014, pending on the file of the Inspector of Police, E-2 Royapettah Police Station.

10. Accordingly, this Criminal Original Petition is allowed.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
E2, Royapettah Police Station,
Chennai-600 014.
2. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.V.Jayachandran Associates, S.R.No.98503

+1cc to Mr.R.Krishna Kumar, Advocate, S.R.No.99311

Crl.O.P.No.29251 of 2014
and
M.P.No.1 of 2014

MP(CO)
CS/31/12/2019