

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21136 of 2017

and Crl.M.P.No.12480 of 2017

Kamaraj

...Petitioner/Accused

-Vs-

1.The Inspector of Police,
Central Crime Branch team-VII,
Veppery, Chennai.

... Respondent/Complainant

2.Dilli Raj

... Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in Crime No.141 of 2014 on the file of the respondent police and quash the same.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : No appearance

O R D E R

This Criminal Original Petition has been filed to quash the criminal proceedings in Crime No.141 of 2014, on the file of the 1st respondent police.

2.The case of the prosecution is that the 2nd respondents father borrowed Rs.5 Lakhs from the petitioner for developing his business in the year 2011 and evaded to repay the amount. Hence, the petitioner lodged a private complaint before the XIV Metorpolitan Magistrate, Egmore (FTC-II) under Section 138 N.I.Act in C.C.No.1498 of 2013. Subsequently, the 2nd respondent also lodged a complaint as against the petitioner before the 1st respondent police and the same was registered in Crime No.141 of 2014 for the offences under Sections 406, 420 and 506(i) IPC and

Sections 3 and 4 of Tamilnadu Prohibition Charging Exorbitant Interest Act 2003, for which the petitioner was arrested and remanded to judicial custody. The petitioner moved a bail petition before the learned Judicial Magistrate, Alandur, wherein the 2nd respondent filed an affidavit that they have arrived at a compromise between them and had amicably settled their issues. Hence, the petitioner filed the present petition seeking to quash the proceedings in Crime No.141 of 2014.

3.It is seen that when the petitioner/accused moved a bail petition, the 2nd respondent/defacto complainant himself had filed an affidavit before the Court below. The relevant portion of the affidavit is extracted hereunder:

"4.....Due to the intervention and advice of friends and relatives of both sides, they compromise the issues between them and amicably settle the matter out of court. The accused and his family members promise and assure that they will return all the documents received from the defacto complainant and they withdraw the criminal complaints. (Under Section 138 of Negotiable Instrument Act) complaints pending before the Ambur Court and Egmore Court filed by the accused and his family members.

5.I state that based on the undertaking given by the accused family members and assurance, the defacto complainant giving no objection to release the accused on bail in the above case.

6.I state that due to efforts and settlements the defacto complainant filing this affidavit for the support of bail application filed by the accused herein.

7.I state that I have no objection to release the accused on bail in the above case and based on the circumstances the custodial interrogation is not necessary because the accused and his family members 'agreed' to return all the documents to the defacto complainant herein. The offences are compoundable and the Hon'ble Apex Courts are clearly stating that the compromise between the parties should be encouraged."

In view of the affidavit of the second respondent, the learned Judicial Magistrate, Alandur, granted bail to the petitioner and recorded as follows:

"Heard. Records perused. The perusal of complaint disclose that the petitioner is alleged to have failed to return the document given by the defacto complainant's father as securities for the money borrowed and also that the petitioner is claiming exhorbitant interest. But, now the defacto complainant himself appear in person and state that

the matter has been compromised. Hence, considering the above fact and the period of custody for the past one week, this Court inclined to grant bail to the petitioner."

4.In view of the matter settled out of Court, no purpose will be served in keeping the F.I.R., pending and to meet the ends of justice, this Court is inclined to quash the F.I.R. in crime No.141 of 2014. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

Rm

To

1.The Inspector of Police,
Central Crime Branch team-VII,
Veppery, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+2cc to Mr.S.Haja Mohideen Gisthi, Advocate, S.R.No. 29637

Cr1.O.P.No.21136 of 2017
and

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SSD(CO)

GN(03/05/2019)

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