

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.8228 OF 2018

AND

CRL.MP.NO.4227 OF 2018

1.M.S.ShriKrishna
2.R.Mohanasundaram
3.M.Subadhra

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by the Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai-15

2. S.Divya

... Respondents

PRAYER :

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the proceedings in CC.No.173 of 2014 on the file of the learned Judicial Magistrate, Alandur, Chennai and quash the same.

For Petitioners: Mr.E.D.Sethupathi

For Respondents

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

For R2 : Mr.V.Neethidurai

WEB COPY ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.173 of 2014 on the file of the learned Judicial Magistrate, Alandur, Chennai.

2. The case is still pending for trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

3. An affidavit has been filed before this Court by the second respondent and also her counsel. All the parties are present and identified by their respective counsel and the Police. In order to identify the respective parties, they have also produced the copies of the Aadhaar Card, which are made part of the record. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves, and the relevant portion of affidavit of the second respondents is extracted hereunder:

"A. The petitioner had filed petition for divorce against the respondent before the Hon'ble II Addl. Family Court at Chennai in OP.No.1348 of 2014, and I filed four I.A.'s in above O.P.No.1348 of 2014, I.A.No.2382 of 2014 for interim maintenance and other I.A's for return of sreedhana articles, permanent alimony and legal expenses for conducting cases in which on 27.02.2020 settlement arrived between the petitioner and me. The respondent had filed E.P.No.80 of 2019 for execution of the order passed in IA.No.2382 of 2014 before the Hon'ble II Addl. Family Court at Chennai and the MC.No.416 of 2017 filed by me before the Hon'ble II Addl. Family Court at Chennai and in the IA.No.2382 of 2014 the petitioner was set exparte and exparte order was passed against the petitioner on 01.11.2017 and the petitioner had filed set aside petition in IA.No.4203 of 2018 and the same was dismissed on 08.07.2019 and aggrieved by the same the petitioner were had preferred the CMA.No.4544 of 2019 before the Hon'ble High Court, Madras it was referred to the Mediation Center, High Court, Madras.

B.The respondent gave a police complaint against the petitioner and his family members and the same is registered in Crime No.6 of 2013 before the Inspector of Police, W-19, All Women Police Station, Adyar, Chennai and subsequently charge sheet was filed and pending in CC.No.173 of 2014 before the learned Judicial Magistrate, Alandur and the petitioner filed Crl.O.P.No.8228 of 2018 for quash the CC.No.173 of 2014 before the Hon'ble High Court, Madras and the same is pending and complaint under the Domestic Violence Act is pending before the learned XVIII Metropolitan Magistrate, Saidapet in MP.No.77 of 2013 and the same was dismissed for default for non appearance of the respondent herein.

C.The petitioner agree to withdraw the above said OP.No.1348 of 2014 filed by him and respondent agree to withdraw the above said IA's and not proceed with the above said Criminal Complaint in CC.No.173 of 2014 before the learned Judicial Magistrate, Alandur and the MC.No.416 of 2017 before the Hon'ble II Additional Family Court, Chennai and also agrees to give my consent for quashing the CC.No.173 of 2014 for which Crl.O.P.No.8228 of 2018 was filed by the petitioner before the Hon'ble High Court, Madras and what are the complaints pending in all the courts which were filed by the respondent in obedience and compliance of the mediation settlement agreed dated 27.02.2020 all the above I.A.Petition and O.P.Petition and MC petition and the CMA petition are withdrawn by the respondent.

D.The respondent agrees to receive an amount of Rs.12,00,000/- (Rupees Twelve Lakhs only) as full and final settlement and the petitioner had paid an amount of Rs.5,00,000/- to the respondent by way of cash while filing HMOP No.3385 of 2015 under Section 13(b) of Hindu Marriage Act (on the file of Hon'ble II Addl.Family Court, Chennai) and the same was withdrawn by the respondent, amount of Rs.5,00,000/- was now in the hands of the respondent. The parties have filed a fresh petition under Section 13(b) of Hindu Marriage Act before the Family Court, Chennai in HMOP.No.907 of 2020 and at the date of taking evidence in the Section 13(b) petition for mutual divorce the petitioner will pay the balance amount of Rs.7,00,000/- (Rupees Seven Lakhs only to the respondent by way of DD.No.510117 dated 07.02.2020 drawn on ICICI Bank, Cenotaph Road Branch and the respondent agreed to receive said money as full and final settlement as agreed and further both parties will not claim in any kind of remedy which in future under the law or any manner."

4. Under such circumstances, no useful purpose will be served in keeping the proceedings in C.C.No.173 of 2014 pending, even though, the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath), this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quashes the proceedings in C.C.No.173 of 2014 on the file of the learned Judicial Magistrate, Alandur, Chennai.

5. This Criminal Original Petition stands allowed and as a sequel, the proceedings in proceedings in C.C.No.173 of 2014 on the file of the learned Judicial Magistrate, Alandur, Chennai is quashed and the affidavit of the second respondent shall form part and parcel of this Order. Petitioners shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only), as costs, to the Tamil Nadu State Legal Services Authority within a period of one week from the date of receipt of a copy of this order and file a photocopy of the receipt along with a memo reporting compliance in the Registry. Consequently, connected miscellaneous petition is closed.

* Xerox copy of Affidavit of M/s.S.Divya,
dated 13.03.2020 enclosed

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai-15.
2. The Public Prosecutor,
High Court of Madras.

Copy To

1. The Secretary,
The Tamil Nadu State Legal Services Authority,
Chennai-104.
2. The Section Officer,
Criminal Section,
High Court, Madras-104.

+1cc to Mr.E.D.Sethupathi, Advocate, S.R.No.23624

CrI.O.P.No.8228 of 2018

PM(CO)
CS/22/07/2020