

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.12828 OF 2017

H.Jitender @ Jithu

... Petitioner/4th Accused

Vs.

1. State represented by,
Inspector of Police (Crime),
(F-2), Egmore Police Station,
Chennai. ...1st Respondent/Complainant

2. Dolbin Golbay Kingsly ... 2nd Respondent/Defacto
Complainant

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for records and quash the Cr.No.154 of 2016, dated 16.02.2016 on the file of the 1st respondent.

For Petitioner : Mr.K.Gopi

For R1 : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

For R2 : Mr.G.Janakiraman

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.154 of 2016, pending on the file of the 1st respondent Police.

2.The case of the prosecution is that the 2nd respondent, due to some financial constraint, handed over his Honda City car to the accused persons and obtained Rs.1,00,000/-, by submitting the original documents of the car. Thereafter, the 2nd respondent returned the amount with interest of Rs.1,35,000/- and requested the accused to return the vehicle, but the accused were delaying and dragging by giving one reason or other and failed to return the vehicle. Later it was found that the name

of the owner has been changed in the Registration Certificate. On coming to know about the same, the 2nd respondent lodged a complaint to the 1st respondent Police and the same was registered in Crime No.154 of 2017, for offence under Section 406 and 420 IPC.

3.The learned counsel for the petitioner submitted that the petitioner is A4. The FIR does not disclose any offence as against the petitioner and there is no prima facie case. He further submitted that the 2nd respondent had not made out a case under Sections 420 and 406 IPC as there is no averments or allegations against the petitioner.

4.It is further submitted that there is no connection between the petitioner and the 2nd respondent. The 2nd respondent availed financial assistance from the other accused not from the petitioner.

5.During the pendency of the above proceedings, the dispute between the accused and the 2nd respondent got resolved and they compromised their issues. Further, the 2nd respondent also agreed to withdraw the FIR in Crime No.154 of 2016, dated 16.02.2016.

6.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that there was a dispute between the accused and the 2nd respondent with regard to financing a car bearing registration number TN 22BJ 3636, for which an FIR has been registered against the accused persons. He further submitted that during the pendency of the investigation, the accused and the 2nd respondent got resolved their issues and the 2nd respondent also agreed to withdraw the complaint.

7.The learned counsel for the 2nd respondent submitted that the 2nd respondent and the accused, entered into a compromise and the 2nd respondent agreed to withdraw the complaint and also filed an affidavit dated 09.09.2020 to that effect. The relevant portion of the affidavit is extracted hereunder:-

"2.I state that I am the 2nd respondent/defacto complainant herein and I am well aware of the facts and circumstances of the above case.

3.I state that I had agreed to withdraw the complaint and to quash the Cr.No.154 of 2016, dated 16.02.2016 on the file of the 1st respondent as per the terms of the accompanying Joint compromise memo.

4.I state that the issue is fully settled herein and I will not reopen the case and I undertake that

there is no dispute pending between the petitioner and myself. I agree to quash the complaint and handover the vehicle to the petitioner."

8.It is seen that the case is still at the stage of investigation. The parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

9.A Joint Memo of Compromise dated 09.09.2020 is filed before this Court, which is signed by the petitioner and the second respondent and also by their respective counsels.

10.Under such circumstances, no useful purpose will be served in keeping the First Information Report pending, even though, the offences involved are not compoundable in nature. The offence alleged is private in nature. The Hon'ble Court in the case of "Gian Singh Versus State of Punjab reported in (2012) 10 SCC 303" had permitted quashing of complaint of this nature. Hence, this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quashes the First Information Report in Crime No.154 of 2016 against the petitioner and others.

11.This Criminal Original Petition stands allowed and as a sequel, the investigation in Crime No.154 of 2016, on the file of the 1st respondent is quashed and the terms of Joint Memo of Compromise shall form part and parcel of this Order.

* Xerox copy of Joint Memo of Compromise, dated 09.09.2020 filed by Petitioner and 2nd Respondent enclosed

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police (Crime),
(F-2), Egmore Police Station, Chennai.
2. The Public Prosecutor, High Court, Madras.

CrI.O.P.No.12828 of 2017

RP(CO)
CS/08/12/2020