



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.(MD).No.3572 of 2020

and Crl.M.P.(MD) No. 1932 of 2020

WEB COPY

1. Sivakumar
2. Sharmilee

...Petitioners/A2 & A3

Vs.

1. The State
Rep by its Inspector of Police,
Central Crime Branch,
Madurai City,
Madurai - 14.
Crime No. 93 of 2012.

...R-1/Complainant

2. M. Rathinasamy

... R-2/Defacto complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the case in C.C.No.32 of 2018, pending trial on the file of the learned Judicial Magistrate No.1, Madurai and quash the same.

For Petitioners : Mr.M. Veilkaniraju

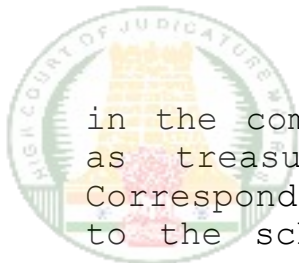
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

For R2 : Mr.T. Sugadev

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.32 of 2018, pending trial on the file of the learned Judicial Magistrate No.1, Madurai, against the petitioners.

2. The learned counsel appearing for the petitioners would submit that the second respondent has filed a petition before the Judicial Magistrate Court No.I, Madurai under Section 156(3) of Cr.P.C. alleging that he was General Secretary of Aruppukkottai Keelapettai Hindu Nadargal Uravinmurai, Madurai and as earliest in the year 1967. During the year 1967, the elders have formed a School in the name of Aruppukkottai Nadar Uravinmurai Magalir Melnilaipalli at Keeraithurai, Madurai and also formed a separate association to administer the said school. He would further submit that the members of the said school Association are under the control of the aforesaid uravinmurai. The further allegation



in the complaint was that the present petitioner who are serving as treasurer and record clerk conspired together with the Correspondent (who is now dead), misappropriated funds belonging to the school to the tune of Rs.43 lakhs by falsification of account and the aforesaid misappropriation was brought to the knowledge of the second respondent by the interim report of the school auditor. A complaint was forwarded under Section 156(3) of Cr.P.C. and a case was registered in Crime No. 93 of 2012 by the respondent police for the offences under Sections 120(b), 406, 420, 465 and 477(A) of IPC and the same was taken cognizance in C.C. No.32 of 2018 on the file of the learned Judicial Magistrate No.I, Madurai. He would further submit that there was a rivalry between the members with regard to control of the Sangam and management of the school. Due to the rivalry the second respondent had preferred the complaint without verifying actual facts. One Mr.Baskaran is the statutory auditor of the Sangam and as per his report, dated 12.09.2012 he had certified that the accounts for the year 2011-2012 were found to be correct. Now, the second respondent also understanding the actual facts has filed an affidavit stating that only on assumption that there was deficit in the school accounts and assuming that the amount was swindled by the petitioners along with Sivasamy (who indeed) the erstwhile Correspondent had given the complaint. Now finding that no loss has been caused either to Sangam or any private individuals and further no public money is involved in the case has now decided to withdraw the complaint.

3. The learned counsel appearing for the second respondent/defacto complainant would submit that the defacto complainant without verifying the actual facts had preferred a false complaint against the petitioners, based on which a case has been registered. Now after verification of accounts and based on the report of the statutory Auditor it is found that there is no discrepancy in the accounts and there is no misappropriation. He would further submit that the second respondent has also filed a supporting affidavit, wherein, paragraph No.4 it has been stated as follows:

"At the time of filing of this complaint, I was serving as Secretary of Madurai Keelapettai Aruppukkottai Hindu Nadargal Uravinmurai Sangam. During that time (i.e.) 2011-2012, the auditor, namely N.S. Baskaran acted as Auditor of both of our sangam and to the Madurai Aruppukkottai Nadar Uravinmurai Mahalir Melnilai Palli Paribalana Sabai. The said auditor filed the statement of accounts for the year 2011-2012 and it was found in the report that there is a deficiency of money in the school account, assuming that, the above said deficiency of money is a act of swindling of money and I hurriedly lodged the above said complaint by



misunderstood the fact and circumstances of the same. Thereafter, I came to know that, the said deficiency has been set right by the office bearers of the school sangam. In view of the same, I decided to withdraw the above said case, as the said complaint has been preferred on my own and not as per the decision of the Madurai Keelapettai Aruppukkottai Hindu Nadargal Uravinmurai Sangam and or its members. "

4. The Additional Public Prosecutor appearing for the respondent police would submit that based on the interim auditor report the defacto complainant had filed a private complaint which was referred under Section 156(3) of Cr.P.C. and a case was registered and the respondent has filed the final report. However, the statutory Auditor has given a report stating that the accounts for the year 2011-2012 were found to be correct.

5. A Joint Memo of Compromise has been filed before this Court, which have been signed by the petitioners and the second respondent and also by their respective counsel. The petitioners and the second respondent were also present in person before this Court and they were identified by Mr.N. Periyadaikan, SSI, CCB/Madurai City. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. It is represented by the learned counsel for the petitioners that the petitioners paid a sum of Rs.10,000/- (Rupees Ten Thousand only) as costs to the Credit of the High Court Legal Services Committee, Madurai Bench of Madras High Court and filed the original cash receipt along with a memo on 27.02.2020. The said submission is placed on record.

7. Accordingly, this Criminal Original Petition stands allowed and the proceedings in C.C. No.32 of 2018 on the file of the learned Judicial Magistrate No.I, Madurai against the accused persons is quashed. The terms of joint compromise memo shall form part and parcel of this order.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



Encl:Xerox copy of Joint Compromise Memo

Ksa

To சென்ட்ரல்

WEB COPY

1. The Judicial Magistrate No.I,
Madurai.
2. The Inspector of Police,
Central Crime Branch,
Madurai City, Madurai - 14.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Authorised Officer,
Legal Services Committee,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.M.Veilkaniraju , Advocate SR.No.9300

Crl.O.P. (MD) .No.3572 of 2020
27.02.2020

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