

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.31489 of 2014

1.B.Senthamarai,
W/o.Mathan I.Mulk

2.J.D.Sapphire,
S/o.J.J.Daniel ...Petitioners/Accused

Vs.

1.State rep. by,
The Inspector of Police,
K 10 Koyambedu Police Station,
Chennai.
(Crime No.1269 of 2014) ...1st Respondent/Complainant

2.Venugopal ...Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, seeking to call for the records in Crime No.1269 of 2014 (on the file of the 1st respondent) and to quash the same.

For Petitioners : Mr.M.Soundar Vijay Arul Ram

For R-1 : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

For R-2 : Mr.T.Nixon (No appearance)

O R D E R

This Criminal Original Petition has been filed by the Petitioners/Accused seeking to call for the records and to quash the proceedings in Crime No.1269 of 2014, on the file of the 1st respondent police.

2.The learned counsel appearing for the petitioners would submit that on the complaint given by the 2nd respondent /

defacto complainant a case in Crime No.1269 of 2014 was registered by the 1st respondent / Complainant against the 1st petitioner who is working as a teacher and the 2nd petitioner who is the correspondent in Daniel Thomas Matriculation Higher Secondary School. He would submit that the allegation in the complaint as per the defacto complainant is that his daughter viz., E.Aswini, was studying in 5th standard in the said school and that she did not attend the school on 30.07.2014 and when she had gone to the school next day, the teachers have questioned her as to why she has taken leave on the previous day and that they have asked her to wait outside the classroom from 11.30 a.m., to 2.30 p.m., due to which, she suffered pain in her hip. Based on the complaint, a case was registered against the petitioners for the offence under Section 23 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

3.Learned counsel would further submit that the petitioners are the teachers, who have questioned the student in the interest and welfare of the child and that they have not given any harsh punishment as stated in the complaint and subsequently, the complainant has also understood that the action taken by the petitioners was only for the welfare of the child and that he has also agreed to withdraw the complaint, pursuant to the understanding, a Joint Affidavit of Compromise, dated 28.11.2014 has been filed before this Court, wherein the petitioner and the 2nd respondent have agreed for quashing the complaint on the ground of compromise.

4.Learned counsel would further submit that on the earlier hearing date viz. 09.03.2015, the complainant had appeared before this Court and his presence has been recorded and during that time, the complainant had stated that they have settled the matter amicably and that he does not want to proceed further. However, on that day, since the 1st petitioner was not present before this Court, the case has been adjourned to 11.03.2015 and thereafter, it has been posted before this Court number of times. He would further submit that since the 2nd respondent / defacto complainant had earlier appeared before this Court, he had expressed his difficulty to appear before this Court and thereby his appearance before this Court today shall be dispensed with and the petition may be allowed in terms of the joint memo of compromise dated 28.11.2014.

5.Learned Government Advocate (CrI.Side) appearing for the 1st respondent/Complainant would submit that the case was registered in respect of an alleged incident that had taken place on 30.07.2014, thereafter, a petition for quashing on the ground of compromise had been filed in CrI.O.P.No.31489 of 2014 and the matter is pending before this Court. Since the joint memo of compromise has been filed seeking to quash the F.I.R.,

the 2nd respondent / defacto complainant did not appear before them and he had also not proceeded any further.

6. Heard the learned counsels. Perused the records including the joint memo of compromise.

7. As per the records, it is seen that the defacto complainant / 2nd respondent was present before this Court on 09.03.2015, however, since the 1st petitioner was not present on that day, the case had been adjourned. It is further submitted by the learned Government Advocate (Crl.Side) that due to non appearance of the 2nd respondent / defacto complainant before the respondent police they are unable to proceed further with the complaint. It is a case registered for offence under Section 23 of Juvenile Justice Care and Protection of Children Act, 2000. The allegation against the petitioners is that they have reprimanded the child of the 2nd respondent / defacto complainant and made her to stand outside the class room due to which, she suffered pain in her hip. Now the defacto complainant having understood that the punishment was given only for the benefit of the child had agreed to withdraw the complaint and the parties have also filed a Joint affidavit. The contents of the Joint affidavit of the 2nd respondent / defacto complainant and the 2nd petitioner is extracted hereunder:

JOINT AFFIDAVIT OF J.D.SAPPHIRE AND VENUGOPAL

"1. We submit that the above Crl.O.P.No.31489 of 2014 has been filed to Quash the FIR registered based on the complaint lodged by the 2nd respondent and registered in Cr.No.1269 of 2014, on the file of the 1st respondent herein.

2. We state that on the complaint lodged by the 2nd respondent in case in Cr.No.1269/14 was registered for the offence U/s.23 of Juvenile Justice case pending on the file of the 1st respondent.

3. We state that after registration of the above case the dispute has been amicably settled between us and now there is no difference and we had prepared to withdraw the complaint upon the compromise entered between us.

4. We state that based on the compromise we had filed the said case for Quash the FIR and further state that compromise entered upon our will and wish.

5. We submit that we seek the Quashing of the FIR on the ground of compromise."

8. In view of the fact that by passage of time, the parties have decided to bury their hatchet and agreed to compromise the dispute amicably among themselves, no useful purpose will be served in keeping the F.I.R. 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 Gujarath) this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quashes the First Information Report in Crime No.1269 of 2014.

9. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.1269 of 2014, on the file of the 1st respondent police is quashed and the terms of joint compromise memo shall form part and parcel of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
K 10 Koyambedu Police Station,
Chennai.

2. The Public Prosecutor,
High Court of Madras.

+1 cc to Mr. Paul Kanagaraj, Advocate Sr.No. 12464

MG(CO)
RMP(01/04/2021)

CrI.O.P.No.31489 of 2014

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