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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.2446 of 2022

1.R.Kishore Kumar

2.Caroline Kishore Kumar

... Petitioners/Accused

Versus

1.The Inspector of Police,
Central Crime Branch- II,
EDF- III, Greater Chennai Police,
Vepery, Chennai

2.Ranga Babu.K

...Respondents/Complainant/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in Crime No.112 of 2019 on the file of the first respondent and quash the same.

For Petitioners : Mr.R.C.Paul Kanagaraj

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to call for the entire records in Crime No.112 of 2019 on the file of the first respondent police and quash the FIR against the petitioner.

2. The case of the prosecution is that the petitioners have assigned construction work to the second respondent/ de-facto complainant at Siruseri, by entering into a Memorandum of Agreement dated 07.12.2016, in which, the entire cost of construction was approximately fixed as Rs.45,00,00,000/- and on the date of agreement an advance amount of Rs.50,00,000/- was paid. A portion of the construction was completed and handed over the building on 28.06.2017, for which, several bills to the tune of Rs.31,10,74,414/- were submitted. Out of the said amount, a sum of Rs.19,70,75,601/- was paid by the petitioner and for the balance amount of Rs.11,39,98,813/- the first



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petitioner has issued a Cheque bearing No.001073 dated 14.12.2018 drawn on HDFC Bank, Velachery Branch. On presentation of the above cheque, the same was returned with an endorsement 'Account Blocked' and thereafter, a legal notice dated 18.12.2021 was issued by the second respondent/de-facto complainant and a reply notice was issued by the first petitioner on 26.12.2018. Since the amount was not paid, a complaint was lodged by the de-facto complainant in Crime No.112 of 2019 on the file of the first respondent police. After registration of F.I.R, the first petitioner made payments to the second respondent/ de-facto complainant. Subsequently, the first petitioner has filed an anticipatory bail before this Court in CrI.O.P.No.5624 of 2020 and interim anticipatory bail was granted on a condition to pay Rs.3,00,00,000/- to the de-facto complainant and the same was also paid.

3. The learned counsel for the petitioners submitted that thereafter, as per the order of this Court, a Valuator was appointed to appraise the work concerned and to derive an estimate. According to the valuator, the final value was fixed as Rs.2,97,00,000/-. Thus, a compromise between the defacto-complainant and the petitioners was arrived upon and the amount to be paid by the petitioner was fixed as Rs.2,47,00,000/- and to that effect, a Memorandum of Compromise was signed between the de-facto complainant and petitioners on 18.10.2021. The Memorandum of Compromise was acted upon and the payment of Rs.2,47,00,000/- was made through Demand Drafts in favour of M/s.R.C.R.C Associates towards full and final settlement. In the Memorandum of Compromise dated 18.10.2021, the second respondent /de-facto complainant and the petitioners have consented for compromise quash of F.I.R. in Crime No.112 of 2019. The said Memorandum of Compromise dated 18.10.2021 reads as follows:

1. Party of the Second part confirms that he has received

- a) First payment vide Demand Draft No.594345 dated 04.08.2021 for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only).
- b) Second payment vide Demand Draft No.594375 dated 21.08.2021 for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only).
- c) Third payment vide Demand Draft No.594425 dated 13.09.2021 for a sum of Rs.47,00,000/- (Rupees Forty Seven Lakhs only)
- d) Fourth payment vide Demand Draft No.594446 dated 28.09.2021 for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only).
- e) Fifth payment vide Demand Draft No.594452 dated 29.09.2021 for a sum of Rs.50,00,000/- (Rupees



Fifty Lakhs Only) from the parties of the first part, in all amounting to Rs.2,47,00,000/- (Rupees Two Crore Forty Seven Lakhs only)

Hence, the petitioners have filed this petition to quash the FIR in Crime No.112 of 2019.

4. The case is still at the stage of investigation. By passage of time, the parties have decided to compromise the dispute amicably among themselves.

5. A Joint Memo of Compromise dated 31.01.2022 signed by both the parties along with their respective counsels is filed before this Court. The second respondent and petitioners present through Video conferencing. In the Joint Memo of Compromise, it has been stated that the petitioners and the second respondent have entered into a compromise and amicably settled their issues in Crime No.112 of 2019. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. Under such circumstances, no useful purpose will be served in keeping the First Information Report pending. Even though, the offence involved is 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., inclined to quash the First Information Report in Crime No.112 of 2019.

7. In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.112 of 2019, on the file of the 1st respondent police, is quashed and the terms of Joint Memo of Compromise shall form part and parcel of this order.

8. The petitioner to donate a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the credit of the Madras Advocate Cooperative Society Limited, Madras in Account No.484022647, Indian Bank, Madras High Court Branch, Madras.

Here in Enter the memo of Compromised

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



ab/srn

To

1. The Inspector of Police,
Central Crime Branch- II,
EDF- III, Greater Chennai Police,
Vepery, Chennai

2. The Public Prosecutor
High Court, Madras.

Copy to

The Secretary
Madras Advocate Cooperative Society Limited, Madras.

+lcc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.7557

Cr1.O.P.No.2446 of 2022

MT (CO)
CT 28/02/2021