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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.5971 OF 2021

AND

CRL.M.P.NOS.3869 & 3871 OF 2021

Nandagopal

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by The Inspector of Police,
Central Crime Branch - I,
Team-XVII,
Anti-Land Grabbing Special Cell,
Veperiy, Chennai - 600 007.

2. Bhuvaneswari

... Respondents

(R2 is Suo Moto impleaded as per
order in Crl.O.P.No.5971 of 2021
and Crl.M.P.Nos.3869 to 3871
of 2021 dated 29.03.2021)

PRAYER:-

Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records in C.C.No.5222 of 2020, on the file of the Metropolitan Magistrate Court for CCB/CBCID, Egmore and quash the same.

For Petitioner : Mr.Manoj Pandian
For M/s.AAV Partners
For A1

Mr.A.Nagarajan for A3

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R1

Mr.P.Nagaraj for R2



O R D E R

This petition has been filed seeking to call for the records in C.C.No.5222 of 2020, on the file of the Metropolitan Magistrate Court for CCB/CBCID, Egmore and quash the same.

2. The gist of the prosecution case as per the defacto complainant (late Tr.L.Sugumar) is that he is the absolute owner of the properties situated at S.No.91/1 (1acre and 2cents); S.No.94/2 (1acre and 7 cents); and S.No.95/1B (58cents) totally measuring 2.67acres in Valasaravakkam Village, Sri Devi Kuppam. Further allegation is that the petitioner and his son/A2 had mortgaged his land in S.No.95/1B admeasuring 0.48cents in favour of L&T Finance Ltd in document No.2891 of 2009 dated 21.07.2009 and as a partner for Mother real estates had mortgaged the lands in S.No.91/1B measuring 0.41cents to IFCI Ltd represented by its Vice President/Tmt.Usha in document No.4160 of 2011 thereby grabbed his property. Based on the complaint given by the defacto complainant, the respondent had registered a case in Cr.No.86/2014 for the offence under Section 406 and 420 IPC and after completion of investigation in City Central Crime Branch filed final report in CC.No.5222 of 2020 on the file of the Metropolitan Magistrate, Land Grabbing cases No.I, Periyamedu, Chennai for the offence under Section 120(b), 420, 423, 465, 468, 471 r/w.34 IPC.

3. Mr.Manoj Pandian, learned counsel appearing for the petitioner would submit that the petitioner is the Partner of Mother Real Estates and the Chairman & Managing Director of Mohan Breweries and Distilleries Ltd and his son/A2/Aravind Nandgopal is a Partner and Director in the aforementioned concerns. A3/Thillainayagam, A4/Ethirajan are also Directors in the above mentioned concern and A5/Ganapathy Subramanian is the Manager of Mohan Breweries and Distilleries Ltd., and A6/Krishnamoorthy is the Deputy Manager of above two concerns.

4. The learned counsel would further submit that in respect of the above properties mentioned in the complaint there were civil litigation pending between the petitioner's concerns and the defacto complainant. Suit in OS.No.99 of 2003 was filed by the Company and the first petitioner and suit in OS.No.549 of 2012 was filed by the defacto complainant in respect of the properties. Both the suits were disposed of by an common judgment dated 18.03.2014. During the pendency of the civil suits, the defacto complainant had preferred a complaint to the respondent/police, based on which a case in Cr.No.86 of 2014 was registered by the respondent.

5. He would further submit that subsequent to the common judgment dated 05.08.2016, both the parties preferred appeals



before this Court in AS.Nos.549 and 550 of 2016 and during the pendency of the civil proceedings, the defacto complainant/ L.Sukumar passed away on 09.08.2015 and thereafter, he was represented by his legal heirs both in the civil and criminal proceedings. During the pendency of the appeal before this Court, the parties have entered into a compromise and based on the joint memo of compromise dated 22.04.2021, both the Appeal suits in AS.Nos.549 and 550 of 2016 were decreed by a common judgment dated 26.04.2021. In the joint memo of compromise filed before the Court, the legal heirs of the defacto complainant have also agreed to withdraw all the criminal cases pending against the petitioner and his company and partnership firm.

6. The learned counsel would submit that the dispute between the parties is a private dispute and no public interest is involved and the matter has also been compromised between the parties. He would further submit that the legal heirs of the defacto complainant are present before this Court and they have no objection in the proceedings in CC.No.5222 of 2022 being quashed, based on the memo or compromise dated 22.04.2021 entered into between them.

7. The learned counsel would further submit that A1 being an octogenarian appeared before this Court through video conference on earlier occasion i.e, on 03.03.2022 and he is unable to appear in person before this Court. A2 and A3 are present before this Court and the legal heirs of the defacto complainant are also present in person.

8. The learned Additional Public Prosecutor would submit that based on the complaint given by Late L.Sukumar the case in Cr.No.86 of 2014 was registered on 12.02.2014 for the offence under Section 406 and 420 IPC and after completion of investigation, the respondent filed final report under Sections 120(b), 420, 423, 465, 468, 471 r/w.34 IPC. He would submit that the respondent police had cited 13 witnesses and he would submit that the case is taken up in CC.No.5222 of 2020 on the file of the Metropolitan Magistrate, CCB/CBCID, Egmore and it is pending trial.

9. Mr.P.Nagaraj, appearing for the second respondent/wife and other legal heirs of the defacto complainant would submit that the dispute between the parties are personal in nature and the parties have settled the dispute among themselves. Pursuant to which a joint memo of compromise entered into between the parties on 22.04.2021. Based on which, AS.Nos.549 and 550 of 2016 have been decreed by a Division Bench of this Court on 26.04.2021. The petitioner/first accused is father, A2 is son of A1 and all the other accused are persons connected to the company and firms of the accused. He would submit that the legal



heirs of the defacto complainant have no objection in the case in CC.No.5222 of 2020 being quashed in entirety against all the accused.

10. Heard the counsel for the petitioner and the learned Additional Public Prosecutor for first respondent and the counsel for the second respondent and perused the materials available on record including the Joint memo of compromise entered into between the petitioner's company and the legal heirs of the defacto complainant.

11. The case in Cr.No.86 of 2014 has been registered for offences under Sections 406 and 420 IPC. After completion of investigation the first respondent has filed the final report under Sections 120(b), 420, 423, 465, 468, 471 r/w.34 IPC and the case is taken up in CC.No.5222 of 2020 on the file of the Metropolitan Magistrate, CCB/CBCID, Egmore.

12. The parties have compromised the matter and a Joint Memo of Compromise dated 22.04.2021 has been entered into between the parties. The relevant paragraphs of the Joint Memo of Compromise is extracted hereunder :-

"1. The PARTY OF FIRST PART is paving a sum of Rs.11,75,00,000/- to PARTIES OF SECOND PART In the following manner for giving up their claim In respect of the schedule mentioned property by confirming title of PARTY OF FIRST PART:-

a. Rs. 10,00,000/- (Rupees Ten Lakhs only) by way of RTGS on 5/3/2021 In favor of S.Bhuvaneshwari from Axis Bank, Chennai - 600 018.

b. Rs 90,00,000/- (Rupees Ninety Lakhs only) by way of Cheque NO 063877 drawn on State Bank of India, N.S.C.Bose Road, in favor of S.Bhuvaneshwari dated 10/3/2021

c. Cheque bearing No.104995 dated 22.04.2021 drawn on Axis Bank, Chennai - 600 018 for a sum of Rs. 2,50,00,000/-(Rupees Two Crores Fifty Lakhs only) in the name of S.Bhuvaneshwari,

d. Cheque bearing No.104996 dated 22.04.2021 drawn on Axis Bank, Chennai - 600 018, for a sum of Rs.2,50,00,000/- (Rupees Two Crores Fifty Lakhs only) in the name of S.Indumathi,

e. Cheque bearing No.104997 dated 22.04.2021 drawn on Axis Bank, Chennai - 600 018, for a sum of



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Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lakhs only) In the name of S.Pravina,

f. Cheque bearing No.104998 dated 22.04.2021 drawn on Axis Bank, Chennai - 600 018, for a sum of Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lakhs only) in the name of S.Kalaivani,

g. Cheque bearing No.104999 dated 22.04.2021 drawn on Axis Bank, Chennai - 600 018, for a sum of Rs.75,00,000/- (Rupees Seventy Five Lakhs only) in favor of V.K.Gurusamy, the nominee of parties of second part and on instructions of parties of second part.

2. The PARTIES OF SECOND PART hereby confirm receipt of said amount and agree for amicable settlement of all disputes.

3. The PARTIES OF SECOND PART in lieu of receipt of sums mentioned above concede right, title and possession in respect of the schedule mentioned properties in favour of PARTY OF FIRST PART. The PARTIES OF SECOND PART hereby confirm that they do not have any right, title, possession or ownership in respect of the schedule mentioned properties.

4. The suit in O.S.No.99 of 2013 in so far it pertains to declaration of title and consequential injunction relief in Clause (a) and (b) of Plaint in O.S.No.99 of 2013 shall be treated as decreed in favor of party of first part. Neither the PARTIES OF SECOND PART or their legal heirs or any person claiming through them shall have any claim, right, title and possession in respect of the schedule mentioned property.

5. Additionally parties of second part are claiming title for lands comprised in 94/2A Valasaravakkam Village, Ambattur Taluk, presently Maduravoyal Taluk, Tiruvallur District, presently Chennai District in the suit in O.S NO.549 of 2012. The same is not subject matter of suit in O.S.NO 99 of 2013. The Parties of second part hereby admit title, ownership and possession of the schedule mentioned in favor of Party of First part. The Parties of Second part hereby agree for party of first part to obtain No Objection Certificate from TNHB or any statutory authorities in respect of the



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said properties in their name and assure that they will not claim any right, title or ownership upon issuance of NOC.

6. The PARTIES OF SECOND PART hereby agree that the PARTY OF FIRST PART shall enjoy the schedule mentioned properties as true and absolute owner in possession of the same without any claim from any person whatsoever.

7. PARTY OF FIRST PART in the Joint memo in A.S.No.549 of 2016 would be withdrawing relief in Clause 'C' of the plaint namely mandatory injunction for cancellation of patta as against the 2nd and 3rd defendants in O.S.No.99 of 2013 and the suit as against the 2nd and 3rd defendants shall stand withdrawn in the light of this Memorandum of Compromise and also on account of fact that parties who contested title of the PARTY OF FIRST PART namely the PARTIES OF SECOND PART are agreeing for transfer of patta in respect of the schedule mentioned property in favour of PARTY OF FIRST PART.

8. Parties of second part who are present pattadhars of the said properties agree for transfer of patta and therefore the relief in Clause C of plaint in O.S.NO.99 of 2013 is deemed as infructuous and unnecessary.

9. The PARTIES OF SECOND PART agree to file necessary applications and seek for return of all original documents filed by them in the suit and handover all such original documents to PARTY OF FIRST PART.

10. The PARTIES OF SECOND PART hereby agree to withdraw the suit in O.S.No.550 of 2016 as settled out of Court in the light of this Memorandum of Compromise and also sign necessary memo in A.S.No.550 of 2016 seeking for withdrawal of suit by recording settlement arrived hereunder.

11. The PARTIES OF SECOND PART in light of disputes being settled shall address necessary communications to the revenue authorities for issuance of patta in respect of the schedule mentioned property in favour of PARTY OF FIRST PART.



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12. Both parties hereby agree that they shall file a Joint memo in A.S.No.549 of 2016 and seek for a compromise decree in terms of this deed of Compromise and this deed of compromise shall be form part of the decree.

13. The parties hereby agree that all disputes, criminal complaints before any forum in relation to the schedule mentioned property amongst the parties shall be treated as 'settled' and shall not be proceeded with further. The parties hereby agree for closure/quashing of criminal cases.

14. The PARTIES OF SECOND PART agree to -sign necessary documents, letters as and when required by the PARTY OF FIRST PART for confirming the title of the PARTY OF FIRST PART in respect of the schedule mentioned property.

15. In case of adverse claim by any third party in relation to schedule mentioned properties, the PARTIES OF SECOND PART agree to resolve the same at their cost and confirm title and possession in favour of PARTY OF FIRST PART.

16. Both parties agree for cooperating with registration of the compromise decree along with this memo of compromise before the Jurisdictional Sub Registrar and shall seek a direction in this regard in memo file before Hon'ble High Court.

17. This agreement is made in triplicate with one original to PARTY OF FIRST PART, one original to PARTIES of second part and one original to be submitted before Hon'ble High Court to be recorded in appeal and made as part of decree.

13. It is settled law that the High Court has inherent power under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings even for the offences which are not compoundable under Section 320 of the Code of Criminal Procedure, where the parties have settled their dispute between themselves. However, while quashing the criminal proceedings, based on the settlement arrived at between the parties, the High Court should act with caution and the power should be exercised sparingly only in order to secure the ends of justice and also to prevent abuse of process of any Court.

14. In Gian Singh vs. State of Punjab [2012 (10) SCC 303], the Supreme Court has held as follows:



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"61. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society."

15. In *Narinder Singh v. State of Punjab* [2014(6) SCC 466], after considering the *Gian Singh's* case referred to above, the Hon'ble Supreme Court has held as follows:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.



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While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

16. In *Parbatbhai Aahir v. State of Gujarat* [AIR 2017 SC 4843], the Supreme Court held thus"

"(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

(2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320



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CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a



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conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

17. Subsequently, a three judges bench of the Hon'ble Apex Court in State of Madhya Pradesh v. Laxmi Narayan reported in (2019) 5 SCC 688 the Hon'ble Supreme Court, considering all the above judgments, has held as follows:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not



v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc."

19. The defacto complainant has given a complaint in respect of land dispute. It is the case of the defacto complainant that



the accused had grabbed the property by fabrication of documents. It is the claim of the petitioners/accused that they are in possession of the property and in respect of the properties civil disputes were pending between the parties. The parties have compromised the matter and they have also filed memorandum of compromise on 22.04.2021, based on which Appeals suits pending before this Court were disposed of by a common judgment dated 26.04.2021. In Clause 13 of the Joint Memorandum of Compromise, the parties have agreed that all disputes, criminal complaints before any forum in relation to the schedule mentioned property amongst the parties shall be treated as "settled" and shall not be proceeded with further.

20. As stated above, the dispute between the parties seems to be private in nature and they may not have any social impact. Further, in view of the compromise between the parties, the possibility of conviction is also remote and bleak. In the above circumstances, the continuity of the criminal proceedings would only cause oppression and frustration to the parties and hence, in order to secure the ends of justice, this court is inclined to quash the criminal proceedings against the petitioner. Though the petition has been filed by the petitioner/first accused alone, in view of the Joint Memo of Compromise no useful purpose will be served by keeping the case pending as against the remaining accused also.

21. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in C.C.No.5222 of 2020, on the file of the Metropolitan Magistrate Court for CCB/CBCID, Egmore, is quashed in respect of all the accused. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Metropolitan Magistrate Court
for CCB/CBCID,
Egmore, Chennai.



2. The Inspector of Police
Central Crime Branch - I,
Team-XVII,
Anti-Land Grabbing Special Cell,
Vepery, Chennai - 600 007.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.AAV Partners, Advocate, S.R.No.15650

CRL.O.P.NO.5971 OF 2021

PM(CO)
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