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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.17208 OF 2021

AND

CRL.M.P.NO.9443 OF 2021

1.K.Kishore Kumar

2.T.R.Prabhakaran

... Petitioners/Accused 1 & 2

-Vs-

1. State rep by,
The Inspector of Police,
J-5, Sasthri Nagar Police Station,
Chennai.

2. Aswath

... Respondents/Complainant, Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the C.C.No.8411 of 2018 pending before the learned Chief Metropolitan Magistrate Court, Egmore and quash the same and subsequent entire proceedings in C.C.No.8411 of 2018 pending before the learned Chief Metropolitan Magistrate Court, Egmore.

For Petitioners : Mr.P.Jesus Moris Ravi

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor for R1
Mr.Venkatesh Mahadevan for R2

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the C.C.No.8411 of 2018 pending before the learned Chief Metropolitan Magistrate Court, Egmore and quash the same.



2.The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

3.An affidavit has been filed before this Court, which has been signed by the second respondent/defacto complainant and also by his counsel. The petitioners and the 2nd respondent/defacto complainant are present before this Court and they were identified by their respective counsel. This Court also enquired both the parties and satisfied that the parties have come to an amicable settlement between themselves. An affidavit of 2nd respondent/defacto complainant is extracted hereunder:-

"2.I submit that I along with my friends had lodged a complaint before the Inspector of Police, Sastry Nagar Police Station, on 14.01.2018 against 1.K.Kishore Kumar (M/aged 29 years), S/o.Krishnamoorthy residing at 24, Lakshmi Puram, Ambedkar 2nd Street, Thiruvannamur, Chennai - 600 041, 2. T.R.Prabhakaran (Male/29 Years) S/o S. ThirumalaiVendan, residing at A 21, Kadambari, Shanthiniketan Apts, No.1 City Link road, Adambakkam, Chennai - 600 088, namely the petitioners/Accused herein. FIR in Crime No.57/2018, was registered against the Petitioners/Accused for offences under Sections 294(b), 324 and 506(2) IPC r/w Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. I submit that the 1st Respondent Police had further filed a Charge Sheet before the Hon'ble Chief Metropolitan Magistrate Court at Egmore and a case in C.C. No. 8411/2018 was taken on file. Presently the said case is pending before the Hon'ble Chief Metropolitan Magistrate Court at Egmore.

3. I submit that in the said case, Charge Sheet has been filed against the Petitioners/Accused for offences under Sections 34, 294(b), 324 and 506(2) IPC, 1860 r/w 3 of TNPPDL Act. I further state that the said case is pending for Trial. I have led witness Defacto Complainant and PW2 is pending to be cross examined.

4. I submit that during the pendency of the said matter before the Hon'ble Chief Metropolitan Magistrate Court at Egmore, Chennai, on the advice given by elders and well-wishers, the parties to the proceedings, namely the Petitioners/Accused above named and myself, have decided to give a quietus to the entire criminal proceedings and decided to bury our differences. I submit that on consensus, myself and the



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Petitioners/Accused have agreed to sink and bury our difference of opinion among ourselves and also agreed to relinquish our right to claim any damages or compensation against each of us, with regard to the said case.

5. I submit that in view of the consensus arrived at between the Petitioner/Accused and myself, to settle the differences amicably, I seek the indulgence of this Hon'ble Court to allow the above Petition filed by the Petitioner/Accused to quash the proceedings in C.C.No.8411/2018, before the Hon'ble Chief Metropolitan Magistrate Court at Egmore, Chennai, to give a quietus to the same.

6. I further state that if the proceedings are allowed to continue it would cause undue hardship to me and also to the Petitioners/Accused and the proceedings would be kept pending and no useful purpose would be served in view of the compromise reached, to settle the differences between myself and the Petitioners/Accused amicably. I humbly submit that the continuation of the Trial proceedings before the Trial Court would be a futile exercise and no useful purpose would be served. I also hereby express my consent to this Hon'ble Court to pass suitable Orders to quash the proceedings in C.C.No.8411 of 2018 in respect of my Complaint dated 14.01.2018.

7. I further submit that in view of the Trial having commenced and witnesses being examined the Trial Court has no powers to compound the offence even though compromise has been entered between the contesting parties. It is therefore just and necessary that this Hon'ble Court may be pleased to take into consideration the compromise reached between myself and the Petitioners/Accused, to settle our difference amicably, since no useful purpose could be served in the continuation of the Trial. Therefore this Hon'ble Court may be pleased to Quash the proceedings in respect of the offence filed in the Charge Sheet in C.C.No.8411 of 2018 pending before the Hon'ble Chief Metropolitan Magistrate Court at Egmore, Chennai."

4. Under such circumstances, no useful purpose will be served in keeping the proceedings in C.C.No.8411 of 2018 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 Gujarat), this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quash the proceedings in C.C.No.8411 of 2018.

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5. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in C.C.No.8411 of 2018 on the file of the learned Chief Metropolitan Magistrate Court, Egmore, Chennai is quashed and the Affidavit of the 2nd respondent/defacto complainant shall form part and parcel of this order. Consequently, connected miscellaneous petition is closed.

* Herein Enclosed the Xerox Copy of Affidavit of 2nd Respondent.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

jas/tsh

To

1. The Chief Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
J-5, Sasthri Nagar Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.17208 of 2021 and
Cr1.M.P.No.9443 of 2021

NMI (CO)
RLP(12/04/2022)