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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.17031 OF 2021

AND

CRL.M.P.NO.9316 OF 2021

V.Rajesh

... Petitioner

Versus

1. The State of Tamilnadu Rep. by
The Inspector of Police,
Central Crime Branch,
Salem, Salem District.

2. Sivanantham

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.163 of 2021 pending trial on the file of the learned Judicial Magistrate No.III, Salem and quash the same.

For Petitioner : Mr.K.Prabakar

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
for R1

R2 : Mr.I.Arokiasamy

O R D E R

This petition has been filed to call for the records in C.C.No.163 of 2021 pending trial on the file of the learned Judicial Magistrate No.III, Salem and quash the same.

2. The case of the prosecution is that the De-facto complainant/2nd Respondent is the Managing Director of the



Company viz., M/s.Sri Narasus Coffee Company Private Limited situated at Johnsonpet, Salem and the said company functioned as partnership firm prior to 01.04.2009. wherein the De-facto complainant/2nd Respondent, his father namely R.P.Sarathy (A1), B.Jayashree, B.Latha and Sri Mahalakshmi Ammal Charitable Trust were the partners. The De-facto complainant's father namely R.P.Sarathy along with other partners left the partnership retired from the firm after receiving consideration and leaving the firm into the complete control and Management of de-facto complainant on 27.08.2006 and thereafter the said business was conducted by the de-facto complainant along with his wife and son. Whiles, the vacant land with a residential building situated in Hasthampatty, Gandhi road which was owned by the said Company was earlier leased to the petitioner by the De-facto complainant's father/1st Accused on behalf of the firm, while the said firm was under his administration and after his retirement, since the said company was under the control of the de-facto complainant, he demanded the petitioner to vacate the leased out premises, which was refused by the petitioner. Thereupon a suit in R.C.O.P.No.29 of 2010 was instituted before the 1st Additional District Munsif Court, Salem against the petitioner. The petitioner along with other accused had created the false document (lease deed) to show that the lease deed was executed between A1 and A2 much prior to the date on which it was sold. The said lease deed was marked as Ex.P8 in the R.C.O.P. Hence, the de-facto complainant filed a complaint against the petitioner and FIR was registered in Crime No.24 of 2013 for the offence under Sections 120B, 465, 471, 19., 196 and 109 of I.P.C. The Inspector of Police, Central Crime Branch, Salem has filed charge sheet before the Judicial Magistrate Court No.III, Salem in C.C.No.163 of 2021.

3. The learned counsel for the petitioner submitted that the dispute between the petitioner and the de-facto complainant was resolved amicably with the efforts of elderly members and he decided to vacate the said premises and handover the same to the de-facto complainant on or before 07.09.2021 and in accordance with the amicable settlement, he filed a Memo before the IV Additional District Munsif, Salem stating that he will vacate the said premises and handover the same on or before 07.09.2021, which was also agreed by the De-facto complainant/2nd Respondent and hence the R.C.O.P. was allowed by order dated 24.03.2021. Hence, the petitioner has filed this petition to quash the charge sheet in C.C.No.163 of 2021.

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



5. The Affidavit dated 05.09.2021 has been filed by the 2nd respondent/de-facto complainant before this Court. The 2nd respondent and petitioner appeared through Video conferencing. In the affidavit, it has been stated that the petitioner and the second respondent have entered into a compromise and amicably settled their issues. It is further stated as per the compromise, the petitioner herein vacated the premises in question and handed over the same to the de-facto complainant/2nd respondent on 05.09.2021. 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 case 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 Gujrath), and after exercising due caution as advised by the Hon'ble Supreme Court in The State of Madhya Pradesh v. Dhruv Gurjar and Another reported in (2019) 2 MLJ Cr1 10, this Court in exercise of its jurisdiction under Section 482 Cr.P.C., quashes the case in C.C.No.163 of 2021, pending on the file of the learned Judicial Magistrate No.III, Salem.

7. This Criminal Original Petition stands allowed and as a sequel, the proceedings in C.C.No.163 of 2021, pending on the file of the learned Judicial Magistrate No.III, Salem, is quashed and the terms of affidavit shall form part and parcel of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

arr/rap

To

1. The Inspector of Police,
Central Crime Branch,
Salem, Salem District.
2. The Chief Judicial Magistrate,
Salem.



3. The Judicial Magistrate III,
Salem.

4. The Public Prosecutor,
High Court, Madras.

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+2ccs to Mr.K.Prabakar, Advocate, S.R.No.5794

CrI.O.P.No.17031 of 2021
and
CRL.M.P.No.9316 of 2021

SPD(CO)
RLP(08/03/2022)