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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.20075 of 2017

and

Crl.M.P.Nos.12104 of 2017 & 13084 of 2021

C.Azeena @ Hasina

... Petitioner

Vs.

1. The Inspector of Police,
District Crime Branch,
Office of the Commissioner of Police,
Veppery, Chennai.

2. Habeeba

3. Shahinalnayath

... Respondents

[R3 impleaded as respondent vide order
of this Court in Crl.M.P.No.4070 of 2018
in Crl.O.P.No.20075 of 2017 dt. 24.01.2022]

Prayer: Criminal Original Petition filed under Section 482
Cr.P.C., to call for the records pertaining to FIR No.414 of
2011 dated 03.07.2011 on the file of the Arakkonam Town Police,
now pending before the 1st respondent and quash the same as
unjust, illegal, unlawful and unsustainable.

For Petitioner : Mr.M.Himavanth

For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

For R2 : Mr.P.R.Balasubramanian

For R3 : M/s.A.Lobamudra



O R D E R

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.414 of 2011 dated 03.07.2011 on the file of the Arakkonam Town Police, now pending before the 1st respondent, filed for the offence under Section 420 IPC, based on the complaint lodged by the 2nd respondent.

2.The FIR has been lodged on the premise that the accused, having agreed to sell the property after receipt of a part of the sale consideration of more than Rs.20 Lakhs, neither executed the sale deed nor repaid the amount as agreed in the contract, however, executed a cancellation agreement. Further, it is alleged that the sale agreement itself was entered into between the parties suppressing the attachment of the property by the civil Court, thereby, the FIR has been lodged against the accused for the offence under Section 420 IPC.

3.Heard the learned counsel on either side and perused the entire materials available on record.

4.The entire dispute between the parties is with regard to the sale agreement originally entered into between the de facto complainant and the present petitioner. It is not disputed that they have also subsequently cancelled the sale agreement, as the amount has not been repaid, which resulted in lodging the FIR.

5.Now, the parties have arrived at a compromise and the petitioner, the 2nd respondent/de facto complainant and the 3rd respondent/subsequent agreement holder, have filed a Joint Memo of Compromise, dated 24.01.2022, before this Court. The terms of the Joint Memo of Compromise are extracted hereunder :

I. "That the petitioner agrees to sell and the 3rd respondent agrees to purchase the property New Door No. 175, Old No.85, AngappaNaicken Street, Chennai - 600 001, measuring to an extent of 1235 Sq.Ft. comprised in Survey Field.No.4490, Block No. 41, Ward No. 1, situated at Purasaiwalkam Taluk and Chennai District, which is the subject matter of the Sale Agreement.

II.That the petitioner shall execute the Sale to and in favour of 3rd respondent Mrs. Shahinalnayathand her son Mr.Mohamed Samiullah, for a total sale consideration of Rs. 1,85,25,000/- (Rupees One Crore Eighty Five Lakh Twenty Five Thousand Only]



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III. That the petitioner acknowledges the receipt of Rs.80,00,000/- as Sale Advance at the time of Sale Agreement on 04-03-2015/05-03-2015.

IV. That out of Balance Sale Consideration of Rs. 1,05,25,000/- (One Crore Five Lakh Twenty Five Thousand only] the 3rd respondent shall pay a sum of Rs.20,00,000/- [Rupees Twenty Lakh only] to the 2nd respondent for and on behalf of the petitioner towards full and final settlement of the dues payable by petitioner to the 2nd respondent.

V. That the 2nd respondent agrees to receive the sum of Rs.20,00,000/ [Rupees Twenty Lakh only] towards full and final settlement and agrees to withdraw the suit in O.S. 3628 of 2019, on the file of II Additional City Civil Court at Chennai and the criminal prosecution in F.I.R.414 of 2011, on the file of the Arakkonam Town Police Station.

VI. That the petitioner shall take all endeavors to conclude the Execution proceedings in E.P. 1043 of 2021 before the XVI Small Causes Court at Chennai.

VII. That the 3rd respondent agrees for Registration and conclusion of the sale Deedon or before 02-02-2022 and the 3rd respondent shall pay the balance sale consideration of Rs.85,25,000/- [Rupees Eighty Five Lakh Twenty Five Thousand only] to the petitioner on or before or at the time of Registration by net transfer or Demand Draft.

VIII. That on conclusion of the sale, the 3rd respondent undertakes to withdraw/compound the criminal prosecution in Crime No. 378 of 2018, on the file of the Central Crime Branch, Commissioner of Police, Veppery, Chennai.



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IX. That the 3rd respondent does not have any objection on the petitioner for withdrawing the sum of Rs. 10,00,000/- deposited by the petitioner pursuant to the orders of this Hon'ble court in Crl.O.P. 33829 of 2019 dated 20-12-2019 in Crime No. 378 of 2018, on the file of the Central Crime Branch, Commissioner of Police, Veppery, Chennai.

X. That the 2nd respondent on receipt of Rs.20,00,000/- towards full and final settlement as stated above doth hereby affirms that there are no dues payable by the petitioner and accordingly 2nd respondent and her Son-in-law, Mr.Mohammed Mustafa and the petitioner herein does not have any claim as against each other.

XI. That the petitioner, 2nd respondent and the 3rd respondent herein had entered into this arrangement on their own accord with prime intention to put a quietus to the issue and to have the issue amicably settled.

XII. That the petitioner, 2nd respondent and the 3rd respondent herein had read the contents of this Memorandum and understood the same and signed and entered into this Memorandum of Compromise on their own volition without any threat or coercion or collusion or undue influence.

XIII. That the petitioner, 2nd respondent and the 3rd respondent herein agrees to record this Memorandum of Compromise and make it as part and parcel of the order of this Hon'ble court."

6.The learned counsel for the petitioner, de facto complainant and the newly impleaded respondent/subsequent agreement holder are present and they submitted that the parties have now entered into a compromise, wherein, the 3rd respondent is ready to purchase the property and they agreed to pay the amount also. The Joint Memo of Compromise filed by the parties is taken on record.

7.As the entire allegations pertain to the enforcement of the contract and sale of the property, when the parties



themselves have settled the matter amicably and have filed a Joint Memo of Compromise to that effect, there is no point in continuing the prosecution based on the FIR for a criminal offence.

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8. Therefore, the proceedings in Crime No.414 of 2011 dated 03.07.2011 on the file of the Arakkonam Town Police, now pending before the 1st respondent, is quashed and as a sequel, this Criminal Original Petition is allowed. The terms of the Joint Memo of Compromise shall form part and parcel of this order.

(*) Xerox copy of Joint Memo of Compromise is enclosed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

mkn

To

1. The Inspector of Police,
District Crime Branch,
Office of the Commissioner of Police,
Veppery, Chennai.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Vasanth, Advocate, S.R.No.4178

Cr1.O.P.No.20075 of 2017

PCH[co]
NSK 09/03/2022