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CRL.O.P.NO.27042 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.O.P.NO.27042 OF 2022

1.Sanjay S.Jain

2.Raksha Jain

... Petitioners

VS.

1.State Rep. By
The Inspector of Police
EDF-, Avadi C.C.B.,
Chennai.

2.Lalith Kumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, with a prayer to call for the records in C.C.B.Crime No.16/2022 on the file of the first respondent police and to quash the same.

For Petitioners : Mr.C.Ravichandran

For Respondent-1 : Mr.E.Raj Thilak
Additional Public Prosecutor

For Respondent-2 : Mr.Lalith Kumar
Party-in-Person



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ORDER

This Criminal Original Petition has been preferred seeking to call for the records in C.C.B.Crime No.16/2022 on the file of the first respondent police and quash the same.

2. When the matter is called today, the learned counsel for the petitioners submitted that the *defacto* complainant and the petitioners had resolved their dispute between themselves and a Memo of Compromise dated 30.10.2022 has been filed by them.

3. The petitioners and the second respondent are present before this Court and they were identified by Mr.D.Jayachandran, Inspector of Police, CCB-Avadi, Chennai. They have also produced the copies of the Aadhaar Card and that will form part of the record.

4. On perusal of the complaint, it is seen that the dispute has arisen out of a money transaction between the petitioners and the second respondent / *defacto* complainant. A case has been registered for the offences under Sections 406, 420 read with 34 IPC. The said offence is



non-compoundable in nature, provided if the aggrieved person compounds the offence.

5. The Memo of Compromise has been signed by the *defacto* complainant and when enquired the *defacto* complainant himself has accepted the receipt of money dues to him from the petitioners.

6. Even though the offences are non-compoundable in nature, in the circumstances of the present case, I feel it is appropriate to refer the principles laid down by the Hon'ble Supreme Court in the case of ***PARBATBHAI AAHIR VS. STATE OF GUJARAT [AIR 2017 SC 4843]***. In the said case, in Paragraph 15, it has held as under:-

"15.The Broad Principles which emerge from the precedents on the subject, may be summarised in the following propositions:-

(i) Section 482 Cr.P.C 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.



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(ii) *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 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.*

7. Since the money due to the second respondent / *defacto* complainant was repaid and the parties have settled their dispute, I feel it is appropriate to allow them to go in peace.

In the result, **this Criminal Original Petition is allowed** and as a sequel, the further proceedings in C.C.B.Crime No.16/2022, on the file of the first respondent police is quashed due to compromise. The Memo of Compromise shall form part of this Order.

04.11.2022

Index : Yes/No
AT/TK



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To

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1.The Inspector of Police
EDF-, Avadi C.C.B.,
Chennai.

2.The Public Prosecutor
High Court of Madras
Chennai.



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R.N.MANJULA, J.

AT/TK

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