



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.10449 of 2022

D.Sam David

... Petitioner/Accused

Vs

1.The State rep. by

The Inspector of Police,
Vadasery Police Station,
Nagercoil,
Kanyakumari District.
(Cr.No.132 of 2019)

...1st Respondent/Complainant

2.P.M.Shajahan

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in connection with Crime No.132 of 2019 on the file of the Judicial Magistrate No.II, Nagercoil and to quash the same.

For Petitioner : Mr.V.Malaiyendran

For Respondents : Mr.E.Antony Sahaya Prabahar

Additional Public Prosecutor for R1
Mr.S.Paul Murugesh for R2

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.132 of 2019, on the file of the first respondent police.

2.The case of the prosecution is that the defacto complainant namely Shajahan, is doing Timber business in the name and style as 'Zeenth Firewood Agency' at Vettoornimadam, Nagercoil. The petitioner had maintained a very good friendly relationship with the defacto complainant. In the meanwhile, the petitioner came to know that the defacto complainant had mortgaged his house in Indian Overseas Bank and raised funds. So the petitioner talked kindly to the defacto complainant and convinced him and received a sum of Rs.23,20,000/- (Rupees Twenty Three lakh Twenty Thousand Only). Likewise, the defacto complainant mortgaged his gold and gave Rs.10,80,000/- (Rupees Ten lakh Eighty Thousand Only). Totally the petitioner had received Rs.34,00,000/- (Rupees Thirty Four lakhs only) from the defacto complainant and did not return the amount and also threatened the defacto complainant. Hence, the complaint.



3.The learned Additional Public Prosecutor appearing for the respondent police submitted that in this case investigation has been completed and final report has also been filed.

4.By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

5.A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioner and the second respondent and also by their respective counsel. The petitioner and the second respondent were also present in person before this Court and they were identified by Ms.S.Geetha, SSI of Police, Vadasery Police Station, Nagercoil, Kanyakumari District. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6.In the instant case, the dispute is of financial in nature and the parties had compromised. Where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Section 420 of IPC.

7.The legal position expressed by the Hon'ble Apex Court in the case of **Gian Singh vs. State of Panjab and another** reported in **(2012)10 SCC 303** and **Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath** reported in **(2017)9 SCC 641** were taken into consideration.

8.In the light of the guidelines issued in the above said Judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in Crime No.132 of 2019 pending before the first respondent police, even though, the offences involved are not compoundable in nature.

9.Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.132 of 2019 on the file of the first respondent police, is quashed insofar as the petitioner alone and the terms of joint compromise memo shall form part and parcel of this order.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

Vsd

Enclosed herewith Copy of the Joint Compromise Memo



To

1. The Judicial Magistrate No.II, Nagercoil

2.The Inspector of Police,
Vadasery Police Station,
Nagercoil,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V. MALAIYENDRAN, Advocate (SR-25624[F] dated
14/06/2022)

CRL.O.P (MD) No.10449 of 2022
14.06.2022

RD(04.07.2022) 3P 5C