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Crl.O.P.No.8730 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.8730 of 2022
and
Crl.M.P.Nos.5085 and 5086 of 2022

1.R.Chinnasamy
2.M.Abdul Hameed

...Petitioners

Vs.

1.The State represented by
The Inspector of Police,
Central Crime Branch,
EDF-I, Team-II,
Vepery, Chennai – 7.

2.Anna Thozhirsanga Peravai
Represented by its Convenor, S.T.K.Jakkaiyan,
No.275, Avvai Shunmugam Salai,
Royapettah,
Chennai – 600 014.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.22 of 2020, pending on the file of the Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai and to quash the same as illegal.



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For Petitioners : Mr.S.Prabakaran, Senior Advocate
for Mr.Abinesh Babu

For R-1 : Mr.Babu Muthu Meeran
Additional Public Prosecutor

For R-2 : Mr.Illayaraja

ORDER

This Criminal Original Petition is filed to call for the records in C.C.No.22 of 2020, pending on the file of the Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai and to quash the same as illegal.

2.When the matter is taken up, petitioners, second respondent and the present Secretary of Anna Thozhir Sangam are present before this Court. Joint memo of compromise filed by petitioners, second respondent and the present Secretary of Anna Thozhir Sangam is filed.

3.It is submitted by the learned counsel for the petitioners that FIR in Crime No.339 of 2018 was registered for the offences under Sections 409, 420, 477A & 506(1) IPC against the accused on the allegation of criminal



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misappropriation of funds of Anna Thozhirsanga Peravai. After registration of FIR, a committee comprising of five members was constituted. The committee conducted an enquiry and came to a decision that a sum of Rs.1,71,61,738/- is accounted and there is no material available to come to the conclusion that accused R.Chinnasamy and M.Abdul Hameed had indulged in criminal misappropriation of funds. On that basis, joint memo of compromise is filed for compounding the offence.

4.The learned Additional Public Prosecutor opposed this petition on the ground that the amount alleged to have been misappropriated is huge and the offence cannot be permitted to be compounded. He further submitted that the case may not be quashed.

5. Considered the rival submissions and perused the records.

6. The counter of the 1st respondent is not filed. The perusal of the First Information Report allegations and final report allegations show that, petitioners/accused in this case are prosecuted for the offences under Sections Sections 409, 420, 477A & 506(1) IPC. Subsequently, the charges were



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altered to under Sections 406, 420 r/w 34 of IPC.

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7. The gist of the allegations are that, Thiru.R.Chinnsamy who was the Secretary of Anna Thozhirsanga Peravai (ATP). Using his position, he had swindled a sum of Rs.3,30,00,000/-. On the said allegations, complaint was given and First Information Report was registered. After investigation, final report was filed for the offences under Sections 409, 420, 477A r/w 34 of IPC.

8. It is brought to the notice of this Court that accused are now charged for the offences under Sections 406, 420 r/w 34 of IPC on multiple grounds. It is also submitted that a Committee was constituted for conducting enquiry into the financial irregularity and misappropriation. After enquiry, the Committee came to the conclusion that, there is no material available to come to the conclusion that accused had indulged in criminal misappropriation of funds. Therefore, Joint Compromise Memo entered into between the petitioners/accused, defacto complaint and Present Secretary of Anna Thozhirsanga Peravai (ATP).

9. A Joint Memo of Compromise dated 18.04.2023 has been filed



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before this Court, which have been signed by the petitioners/accused, defacto complaint and Present Secretary of Anna Thozhirsanga Peravai (ATP) and also by the learned counsel for the petitioners and 2nd respondent.

10. The petitioners and the second respondent were also present in person before this Court and they were identified by **Ms.H.Vahitha Banu, WGR1-39768, CCB, EDF-I, Team-II**. This Court also enquired both the parties and is satisfied that the parties have come to an amicable settlement among themselves. The second respondent answered this Court, that he had entered into a Memorandum of compromise with the petitioners and he has no objection for quashing the proceedings in C.C.No.22 of 2020, pending on the file of the Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai against the petitioners. It is affirmed by the Present Secretary of ATP.

11. Considering the fact that, the second respondent does not want to prosecute the case against the petitioners and that he has no objection for quashment of proceedings and also considering that the offences are compoundable offence, no useful purpose will be served in keeping the



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proceedings in C.C.No.22 of 2020, pending on the file of the Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai against the petitioners.

12. 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)**, this Court in exercise of its jurisdiction under Section 482 Cr.P.C., quashes the C.C.No.22 of 2020, pending on the file of the Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai against the petitioners.

13. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the C.C.No.22 of 2020, pending on the file of the Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai against the petitioners is quashed and the terms of joint compromise memo shall form part and parcel of this order. Consequently, the connected



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Miscellaneous Petitions are closed.

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Internet :Yes

Index :Yes/No

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To:

1.The Additional Special Court, specially constituted for trial of cases related to elected Members of Parliament and Members of Legislative Assembly of Tamilnadu, Chennai.

2.The Inspector of Police,
Central Crime Branch,
EDF-I, Team-II,
Vepery, Chennai – 7.

3.Anna Thozhirsanga Peravai
Represented by its Convenor, S.T.K.Jakkaiyan,
No.275, Avvai Shunmugam Salai,
Royapettah,
Chennai – 600 014.

4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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