



Crl.O.P. No. 12199 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P. No. 12199 of 2014
and
Crl.M.P.No. 437 of 2020

S.Viswanathan,
S/o. Sundarswamy

... Petitioner

Versus

1. State,
rep. by its Inspector of Police,
Crime Branch, C.I.D.,
Coimbatore District.
(Crime No.1 of 2014)

2. R.Gobinathan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for records in Crime No.1 of 2014 on the file of 1st respondent and quash the same.



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For Petitioner : Mr.N.R.Elango,
Senior Advocate for
Mr.S.Nedunchezhiyan

For Respondents : Mr.Leonard Arul Joseph Selvam,
Govt. Advocate (Crl. Side) for R1

Mr. M.P.Saravanan for R2

ORDER

The petitioner herein has filed the above Criminal Original Petition praying to call for records relating to the case in Crime No.1 of 2014, on the file of 1st respondent herein and quash the same stating that the Investigating Officer failed to take note that even as per the complaint and available records, none of the offence under Sec. 365, 294(b), 323, 324 and 506(ii) I.P.C. can be invoked against him and the materials produced along with the petition itself is sufficient to quash the F.I.R. as malicious and not prima facie constitute any offence. He would also content that the Investigating Officer failed to take note of the fact that the dispute between the defacto complainant and this petitioner is pertaining to purchase and selling the house plots seems to be civil in nature and considering the same, F.I.R. was lodged, as such is totally erroneous and the same is liable to be quashed.



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2. The 1st respondent Inspector of Police and 2nd respondent, who is defacto complainant, appeared through their respective counsels. During the pendency of proceedings, when the matter was posted for enquiry, the petitioner has filed a joint compromise memo and based on that, he prayed to quash the entire proceedings pertaining to Crime No.1 of 2014 on the file of 1st respondent police. To record the said compromise, the petitioner as well as 2nd respondent also appeared before this court.

3. On perusal joint memo of compromise, it reveals that the defacto complainant is not inclined to proceed further as the land dispute between parties was amicably settled, but the learned Government Advocate (Crl. side) appearing for 1st respondent raised strong objection to record the compromise stating that as per the investigation, the petitioner/1st accused along with rowdy elements including some of persons viz., A3, then Head Constable of Pudhupattinam Police Station, Nagapattinam District, A4, retired police officer and A5, then Inspector of Police, Pudhupattinam Police Station and other persons formed unlawful assembly and trespassed



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into the house of defacto complainant with deadly weapons and forcibly abducted Gopinathan, defacto complainant from his residence and the said victim was taken to an area near Trichy Airport, where A5 then Inspector of Police, Pudhupattinam Police Station found in uniform threatened the victim, assaulted and criminally intimidated and obtained signature, thumb impressions in blank stamp papers and bond papers with the help of other accused. Thereafter, the victim was dropped near Thudiyalur police station by the accused. He would submit that subsequently, based on the complaint given by Gopinathan, a case was registered in Thudiyalur Police Station in Crime No.18 of 2014 under Sec. 147, 148, 365, 294(b), 323, 324 and 506 (ii) I.P.C. against 13 persons. Since the police officials were cited as accused, the investigation was transferred to CBCID, Coimbatore as per the order of Director General of Police. Accordingly, he prayed to dismiss this petition.

4. During the course of investigation, 76 witnesses were examined and 120 documents were collected and on verification through the tower location at Trichy Airport, the alleged accused and the defacto complainant



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were found at the scene of occurrence. Furthermore, on verification at RTO office, the vehicle belong to A2 Vinayagamoorthy, who is associate of A1, was also involved in the commission of offence. Aggrieved over the said complaint, A1 Viswanathan, petitioner herein conspired and registered a false case against the 2nd respondent/defacto complainant herein and the investigation revealed that it is a false case and it was referred as mistake of fact. Thereafter, the petitioner has filed another complaint before Eral Police Station against the defacto complainant herein and the same was referred as mistake of fact. Thereafter, another complaint was lodged at Thiruvankadu Police Station in Crime No. 3/2014 and the same was also referred as mistake of fact.

5. The learned Government Advocate (Criminal side) appearing for 1st respondent referring the false cases lodged by this petitioner, would submit that the mode of modus operandi of this petitioner to abduct the landowners in order to get a signature in blank stamp papers and bond papers forcibly and thereafter, entered into a compromise, would show that he intended to grab the land of innocent persons, the defacto complainant is one of such



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person, who was made to enter into a Memorandum of Understanding with regard to purchase of land by investing huge amount, but the land was subsequently registered by this petitioner in his name, which is contrary to the terms of Memorandum of Understanding. So, the dispute arose with regard to investment made by the defacto complainant and as the matter was settled, the defacto complainant filed a suit, wherein also, the petitioner appeared and reported that he has agreed to settle the issue. Accordingly, the said suit was withdrawn. But, subsequently this petitioner has not complied with the terms. Hence, the dispute arose and the present complaint was lodged by the defacto complainant. On submitting all these facts, the learned Government Advocate appearing for 1st respondent raised objection stating that based on a compromise memo, this petitioner wanted to escape from the clutches of law by some hook and crook methods, but the prosecution having strong objections, since because some of police officials involved in this case. Hence, they have vehemently objected not to record compromise even if the defacto complainant is not inclined to proceed further.



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6. By way of reply, the learned counsel for petitioner relied on the following authorities rendered by this court in support of his contentions :-

- (i) The decision held by this court in ***Crl.O.P.No.232 of 2021*** in the case of ***Vijayalakshmi and another vs. State, rep. by Inspector of Police and another***
- (ii) The decision held by this court in ***Crl.O.P.No.7837 of 2022*** in the case of ***S.Sathish Kumar vs. State, rep. by Inspector of Police and another***
- (iii) The decision held by this court in ***Crl.O.P.No.6542 of 2022*** in the case of ***Arumugam and others vs. State, rep. by Inspector of Police and another***
- (iv) The decision held by this court in ***Crl.O.P.No.9691 of 2022*** in the case of ***Arumugam vs. State, rep. by Inspector of Police and another***
- (v) The decision held by this court in ***Crl.O.P.No.22385 of 2022*** in the case of ***Muruganandham and another vs. State, rep. by Inspector of Police and another***



(vi) The decision held by ***High Court of Punjab*** in ***CRM-M-12161 of 2017*** in the case of ***Priya and others vs. State of Punjab and another***

(vii) *The decision held by High Court of Delhi in Crl.M.C.No.674 of 2021 in the case of Mohd. Umair @ Umer vs. State of Delhi and another*

Referring the aforesaid authorities, he argues that this court has power to quash the F.I.R.. on the basis of compromise arrived at between the parties while exercising jurisdiction under Sec.482 of Cr.P.C.

7. Admittedly, most of the referred cases relied on by the petitioner are arising out of the complaint lodged by the victim girl under the POCSO Act and after that, victim girl and boy have got married and settled in their life. So, this Court quashed the proceedings holding that those cases are arising out of love affair between parties, which are private in nature. Accordingly, those proceedings were quashed in most of the referred cases and those cases are not applicable to the case in hand for the reason that the allegations levelled against the petitioner by the defacto complainant is not



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such a private in nature. On seeing the gravity of offence, it reveals that more than 10 persons by forming unlawful assembly conspired and trespassed into the house of defacto complainant, abducted him and also obtained signature from him in order to achieve their unlawful gain. It is also pertinent to note that some of the accused are police officials, more particularly, A5 was then Inspector of Police, Pudhupattinam Police Station. Therefore, while quashing the criminal proceedings in F.I.R. in exercise of inherent jurisdiction, it has to be exercised in accordance with law. Only the authority relied on by the petitioner in **Crl.M.C.No. 674 of 2021** is supporting the case of prosecution, wherein the **High Court of Delhi** held that the criminal proceedings can be quashed, which would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of criminal proceedings is amounting to abuse of process of law despite settlement and compromise arrived between parties.

8. The learned counsel for petitioner argues that the alleged offence mentioned in the F.I.R. arising out of business relationship between the defacto complainant and the petitioner/accused, more particularly, with regard to purchase of land in the real estate business, which is totally civil in



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nature and moreover, both parties are resolved to settle their entire dispute, thereby this Court is having ample power to quash the same in view of compromise arrived between the parties. Furthermore, if any settlement arrived between the parties, the same cannot be objected by the 1st respondent.

9. Per contra, learned Government Advocate (Crl. Side) appearing for 1st respondent would vehemently content that the petitioner is not an ordinary innocent person, however, he along with his friends involved about 22 cases and most of cases are arisen due to illegality committed by the petitioner with regard to purchase of land and also submit that in order to purchase the land, this petitioner would go to any extent to get the property and the case in hand is one such case, wherein the defacto complainant was believed to purchase the land by investing huge crores of amount, but the land was registered in the name of this petitioner, which is contrary to the terms of Memorandum of Understanding, thereby it is not an ordinary case of civil in nature, since some of the accused are from the police department, who actively conspired and colluded with the petitioner to acquire the lands from innocent persons.



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10. Considering the facts and circumstances and on perusal of records, it reveals that the petitioner and the defacto complainant entered into a Memorandum of Understanding to purchase the land, but after the investment made by the 2nd respondent/defacto complainant, this petitioner registered the land in his name, thereby the dispute arose between them, which ended in the present F.I.R. Admittedly, as pointed out by the learned Government Advocate, nearly about 3 police personnels, in which one of police person, then Inspector of Police went to the occurrence place in uniform and threatened the 2nd respondent and at that time, signature was forcibly obtained. All these facts prima facie proved by relying tower location through the camera fixed nearby airport. Therefore, the F.I.R. cannot be quashed merely because the defacto complainant, who gave the complaint against the petitioner/A1 entered into a compromise. Thus, the conduct of the petitioner would show that prima facie he was involved in the offence, which needs detailed investigation. It would also prima facie shows his modus operandi in order to grab the land with the help of other accused and then forcibly compelled the landowner to sell his property to him, which cannot be termed as an ordinary civil case in nature. Therefore,



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the authorities relied on by the learned counsel for petitioner is not supporting his contentions, on the other hand, objections raised by the learned Government Advocate (Criminal side) is valid one and though the compromise arrived between parties, the conduct of petitioner needs detailed investigation, since some of the accused are belong to police department. Hence, the objections raised by the learned Government Advocate appearing for 1st respondent is justifiable one and accordingly, the compromise cannot be recorded as well as there is no prima facie to quash the proceedings. Accordingly, this Criminal Original Petition is dismissed. The 1st respondent is directed to proceed with the investigation and submit a final report as per manner known to law before the trial court.

24.08.2023

Index: Yes/No
Internet: Yes/No
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To

1. Inspector of Police, Crime Branch, C.I.D.,
Coimbatore District.
2. The Public Prosecutor, High Court, Madras.

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T.V.THAMILSELVI, J.

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Pre-delivery order in
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