



Crl.O.P.No.22571 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.22571 of 2023
and Crl.M.P.No.15789 of 2023

1. Radhesh Shyam Sandak
2. Surendrakumar Sandak
3. Venkatesan @ Kuthirai Venkatesan
4. Sathish
5. Mohan
6. Arjun @ Vasanth .. Petitioners

Versus

1. State rep by Inspector of Police,
C-3 Seven Wells Police Station,
Chennai - 01.
2. Nanda Kishore Chandak .. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in S.C.No.64 of 2021 on the file of the learned XXI Additional Sessions Judge, Chennai, to quash the same.

For Petitioners : Mr.S.Suresh
For Respondents : Mr.A.Gopinath,
Government Advocate (Crl. Side)



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for R1

ORDER

This petition has been filed to quash the proceedings pending in S.C.No.64 of 2021 on the file of the learned XXI Additional Sessions Judge, Chennai, on the ground of compromise.

2. The case of the prosecution is that on 22.07.2017 at about 7.00 am., four unknown persons came to the house of the de-facto complainant and they banged the door and asked the de-facto complainant to open the door. The de-facto complainant did not open the door and he called the Police over phone. The further case of the prosecution is that there is an existing business rivalry between A1 and the second respondent. The second respondent suspected that A1 and A2 had engaged A3 to A6 to attack him. Hence, the second respondent lodged a complaint before the first respondent and it was registered in Crime No.845 of 2017 for offences under Sections 454 and 506(i) of I.P.C. During the course of investigation, the offences were altered to Sections 307 and 120B of I.P.C. Subsequently, it was once again altered



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for offence under Sections 120(B) r/w 302, 385, 506(ii) of I.P.C. The investigation was completed and final report was filed before the learned Metropolitan Magistrate, George Town, Chennai and the same was taken on file as against the six accused persons. The case thereafter committed to the file of the learned XXI Additional Sessions Judge, Chennai and it is now pending in S.C.No.64 of 2021.

3. The de-facto complaint / second respondent is present before this Court. He stated that the first petitioner is his uncle and the second petitioner is his own brother. He is not aware about A3 to A6. He stated that the matter has been compromised with A1 and A2 and that he is no longer interested in prosecuting this case.

4. The learned Government Advocate (Crl. Side) seeks for time to take instructions regarding antecedents of A3 to A6. The Apex Court in *Mohammad Wajid and Anr. Vs. State of U.P and Ors.* reported in **2023 LiveLaw (SC) 624** has categorically held that criminal antecedents of an accused cannot be the sole consideration for declining to quash the



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criminal proceedings. The Apex Court has made it clear that frivolous and vexatious proceedings needs to be interfered and it has to be done with due care and circumspection.

5. The first and second petitioners had filed quash petitions before this Court in Crl.O.P.Nos.4028 and 4841 of 2021 and these petitions came to be dismissed on merits by an order dated 07.12.2022. The present petition seeking to quash the proceedings has been filed on the ground that the parties have already reached a compromise in this case. In view of the same, he is not interested in prosecuting the case against the accused persons. Hence, the earlier order passed by this Court in Crl.O.P.Nos.4028 and 4841/2021 will not be a bar to pass further orders in this quash petition

6. However, the learned Government Advocate (Crl. Side) wants to take instructions on the antecedents of A3 to A6 in this case. The antecedents of A3 to A6 are irrelevant in this case considering the facts and circumstances of the case.



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7. Under such circumstances, no useful purpose will be served in keeping the case pending, even though, the offences involved are not compoundable in nature. 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)**, and after exercising due caution as advised by the Hon'ble Supreme Court in ***The State of Madhya Pradesh v. Dhruv Gurjar and Another*** reported in **(2019) 2 MLJ Crl 10**, this Court in exercise of its jurisdiction under Section 482 Cr.P.C., quashes the case in S.C.No.64 of 2023 on the file of the learned XXI Additional Sessions Judge, Chennai.

8. This Criminal Original Petition stands allowed and as a sequel, the proceedings in S.C.No.64 of 2023 on the file of the learned XXI Additional Sessions Judge, Chennai is quashed and the terms of affidavit of the second respondent / de-facto complainant shall form part and parcel of this order. Consequently, connected miscellaneous petition is closed.



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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs/RR/kp

To

1. The XXI Additional Sessions Judge,
Chennai.
2. The Inspector of Police,
C-3 Seven Wells Police Station,
Chennai - 01.
3. The Public Prosecutor,
High Court of Madras.



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N.ANAND VENKATESH, J.

grs/RR

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