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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Review Application (Writ) No.69 of 2023
and W.M.P.No.14290 of 2023
against
W.P.No.25209 of 2022

1. K.Srinivasa Rao
2. K.Tarun Krishna Prasad .. Petitioners

Vs.

1. R.Rajesh
2. The Government of Tamil Nadu
   Department of Home,
   Rep. by its Secretary,
   St. George Fort,
   Chennai – 600 009.

3. The Director General of Police,
   No.1, Dr. Radhakrishnan Salai,
   Mylapore, Chennai – 600 004.

4. The Director General of Police,
   Crime Branch, CID,
   No.24, Pantheon Road,
   Egmore, Chennai – 600 008.

5. The Commissioner of Police,
   132, EVK Sampath Road,
   Vepery, Periyamet,
   Chennai – 600 003.

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6. The Central Bureau of Investigation (CBI)
Rep. by its Director,
Rajaji Bhavan Complex,
3rd Avenue, Besant Nagar,
Chennai – 600 090. .. Respondents

Prayer : The Petitions are filed under Order XLVII Rule-1 of Code of Civil Procedure, to review the order dated 20.09.2022 made in W.P.No.25209 of 2022.

For Petitioners : Mr.C.K.Chandrasekkar
For Respondents
For R1 : Mr.R.S.Anhamuthu
For R2 to R5 : Mr.S.Sugendran
Additional Public Prosecutor
For R6 : Mr.K.Srinivasan
Special Public Prosecutor

ORDER

This petition has been filed to review the order dated 20.09.2022 passed by this Court in W.P.No.25209 of 2022.

2. The first respondent filed Writ Petition in W.P.No.25209 of 2022 seeking directions of transfer of investigation in Crime No.4 of 2021 dated 24.06.2021 registered for the offence under Sections 147, 323, 347, 384, 420 of IPC., on the file of the Inspector of Police, Metro Police Station, CBCID Headquarters, Chennai as against ten accused persons, on the complaint lodged

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by the first respondent. While pending investigation, the first respondent filed the said Writ Petition for transfer of investigation without satisfying the investigation done by the Inspector of Police, Metro Police Station, CBCID Headquarters, Chennai.

3. After registration of FIR, the accused A1 to A3, A6, A9 and A10 filed quash petition before this Court to quash the FIR registered in Crime No.4 of 2021 in Crl.O.P.Nos.5224, 11196, 14225 of 2022 and Crl.O.P.Nos.15127 & 22359 of 2021. The Writ Petition filed by the first respondent/defacto complainant was listed on 19.09.2022. Since the quash petitions were listed on 20.09.2022, this Court directed the Registry to list the Writ Petition along with the quash petitions. Further this Court was not inclined to quash the FIR registered in Crime No.4 of 2021 and dismissed all the quash petitions. Simultenously, the Writ Petition was ordered and this Court transfered the investigation in Crime No.4 of 2021 to the file of the sixth respondent herein.

4. The accused persons aggrieved by the dismissal of the quash petitions and also transfer of investigation, filed a Special Leave Petition before the Hon'ble Supreme Court of India on the ground that the first respondent filed

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petition for transfer of investigation and the same was allowed without even notice to the respondents and also without even impleading the accused as parties. Though the Hon'ble Supreme Court of India was not inclined to enteretain the SLP filed as against the dismissal of quash petition, orally suggested the petitioners to approach this Court by way of Review Petition to review the order passed in the Writ Petition. Since the accused persons viz., A1 & A2 were not parties to the Writ Petition, they filed petition to grant leave to file the review petition and the same was allowed by this Court and numbered as the present Review Petition.

5. While pending this proceeding, the main accused was settled the issue with the first respondent/defacto complainant amicably and they have entered into a Deed of Memorandum of Understanding dated 24.05.2023. Further in view of the order passed by this Court in the transfer of investigation petition in W.P.No.25290 of 2022, they could not able to withdraw the said complaint.

6. The learned Special Public Prosecutor appearing for the sixth respondent submitted that after the transfer of investigation, they registered

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R.C.No.13-S/22 and so far they examined 15 persons and recovered 25 documents. Further the investigation is still pending and not completed and yet to file final report in R.C.No.13-S/22 on the file of the sixth respondent.

7. It is also seen that the writ petition filed on 14.09.2022 and the same was listed before this Court on 19.02.2022. Since the quash petitions were listed on 20.09.2022, the writ petition also clubbed along with the quash petitions and taken up the matter. This Court found some force in the statement of the first respondent and therefore not inclined to quash the FIR in Crime No.4 of 2021 and also transferred the investigation in Crime No.4 of 2021 to the sixth respondent herein. Now the issue has been amicably settled between the first respondent and the accused persons.

8. Today, the accused persons A1 to A3 and the first respondent/defacto complainant are present before this Court. Their statement also recorded and they stated that they had settled the issue amicably and they also entered into joint compromise dated 07.06.2023. The said joint compromise also produced before this Court along with separate affidavit of the first respondent. According to the joint compromise, the first respondent entered

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into a Deed of Memorandum of Understanding with the third accused, who is the main accused played major role in the crime.

9. On perusal of the Deed of Memorandum of Understanding dated 24.05.2023, it revealed that both the parties agreed to extend their co-operation unconditionally to withdraw all the criminal cases filed against each other. Further they will extend their absolute co-operation till the end of the process of withdrawal of complaint before the entire judicial and quasi-judicial forum. They also agreed to execute memorandum of compromise to be filed before this Court to quash the criminal complaints pending on the file of the sixth respondent herein.

10. Considering the above facts and circumstances, the order passed by this Court in W.P.No.25209 of 2022 dated 20.09.2022 is hereby recalled. Accordingly, the Review Application stands allowed. Consequently, connected miscellaneous petition is closed.

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Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN, J.

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