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Crl.O.P.(MD)No.5375 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 11/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.5375 of 2023

Karthick : Petitioner/Sole Accused
Vs.

1.The Inspector of Police,
Vengamedu Police Station,
Karur District. : R1/Complainant

2.Mrs.Saraswathi : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in FIR No.458 of 2021 on the file of the respondent police for an offence punishable under section 323, 385 and 506(i) IPC and quash the First Information Report.

For Petitioner : M/s.M.Rajeswari

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.S.Suresh Manickam

O R D E R

This criminal original petition has been filed seeking quashment of the FIR in Crime No.458 of 2021 on the file of the 1st respondent.



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2.The case of the prosecution is that the de-facto complainant is the mother of the petitioner. She blessed with one daughter by name Lavanya and one son by name Karthick, the petitioner herein. They were married and both were living separately. The de-facto complainant's husband passed away 6 years back. The husband of the de-facto complainant was doing real estate business and he purchased some properties from his earnings. After his demise the petitioner had come to the de-facto complainant's house and have taken all the properties earned by the de-facto complainant and her husband. So the de-facto complainant (mother) made a complaint, on 13/05/2016, in which no action has taken.

3.The allegation against the petitioner is that when the ancestral property was sold for a sum of Rs.9 Lakhs, which having equal share to the petitioner, de-facto complainant and the sister of the petitioner, the petitioner did not give Rs.3 Lakhs share to the de-facto complainant. And caused hurt to the de-facto complainant and made criminal intimidation. On the basis of the complaint given by the de-facto complainant, a case in Crime No.458 of 2021 was registered for the offences under sections 385, 323 and 506(i) IPC.



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4. Seeking quashment of the same, this petition has been filed on the ground that some of the properties were fully enjoyed by the sister of petitioner herein and she is in possession of the property; The petitioner not enjoyed all the properties; After lodging FIR, the petitioner approached this court and the matter was referred to Mediation for settlement of the dispute between the petitioner and the de-facto complainant; The petitioner gave demand draft for a sum of R.3,00,000/- in favour of the second respondent/de-facto complainant, on 25/10/2021 and the same was accepted by de-facto complainant. After recording compromise between parties, anticipatory bail was granted in CrI.OP(MD)No.13128 of 2021, on 26/10/2021 with certain conditions.

5. Heard both sides.

6. Since this petition is filed on the basis of the alleged compromise entered between the petitioner and the second respondent, notice was ordered to the second respondent to present before this court. Having received the notice, the second respondent failed to appear before the Mediation Centre. While entertaining the anticipatory bail application in CrI.OP(MD)No.13128 of 2021, compromise was arrived between the parties.



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7.The terms of compromise memo reads as under:-

"(a)The petitioner regrets and tender his unconditional apology to the defacto complainant for the occurrence dated 15.08.2021 and handed over the demand draft bearing No.100868 dated 25.10.2021 drawn at Axis Ban, Karur Branch for Rs.3,00,000/- to the defacto complainant.

(b)The petitioner also affirms that he will not indulge in similar occurrence as against the defacto complainant and agrees that he will not give room for any complaint from the hands of the defacto complainant.

(c)The defacto complainant having received the demand draft bearing No. 100868 dated 25.10.2021 drawn at Axis Bank, Karur Branch for Rs.3,00,000/-, hereby withdrawn the complaint pending in Crime No.458 of 2021 and agrees to compound the case.

(d)Both the parties agree that with regard to the other claims, they will workout their remedies before the competent court of law."



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8.In pursuance of the above said compromise, Crl.OP (MD)No.13128 of 2021 was allowed by this court,dated 26/10/2021 by granting anticipatory bail.

Para 3 and 4 of the order reads as follows:-

"3.When the matter was taken up for hearing, on 13.09.2021, the learned counsel for the petitioner as well as the de-facto complainant submitted that the entire issue could be solved amicably and suggested that the matter be referred to the Mediation and Conciliation Centre. After completion of the Mediation process, the case was posted before this Court.

4.Today, when the matter is taken up for hearing, the learned counsel for the petitioner submitted that the issue has been settled between the parties amicably and he has filed a compromise memo before this Court to the effect."

9.In view of the above said development, it appears that the de-facto complainant did not appear before the first respondent and gave the statement of compromise. For what reason, the second respondent has not chosen to appear before this court is not known.



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10.In view of the compromise reached between the parties while entertaining the anticipatory bail application, continuation of the proceedings will amount to clear abuse of process of the court. On that ground, this criminal original petition is liable to be allowed.

11.In the result, this criminal original petition is **allowed**. The FIR in Crime No.458 of 2021 pending on the file of the 1st respondent is hereby quashed against the petitioner.

11/12/2023

Index:Yes/No
Internet:Yes/No

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To,

1.The Inspector of Police,
Vengamedu Police Station,
Karur.

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



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G.ILANGO VAN, J

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