



CrI.O.P.(MD)No.2667 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.2667 of 2022

and

CrI.M.P.(MD).Nos.1991 & 2026 of 2022

Tmt.Nirmalabastin

... Petitioner

Vs.

A.Alagarsamy

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in S.T.C.No.325 of 2021 on the file of the learned Judicial Magistrate No.II (Fast Track Court at Magistrate Level), Madurai and quash the same as illegal.

For petitioner

: Mr.K.Neelamegam

For Respondent

: Mr.R.Anand

ORDER

This petition has been filed seeking to quash the proceedings in S.T.C.No.325 of 2021 on the file of the learned Judicial Magistrate No.II (Fast Track Court at Magistrate Level), Madurai, against the petitioner herein.



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2. The case of the prosecution is that the petitioner herein has entered into a sale agreement with the respondent and the respondent has paid a sum of Rs.9,00,000/- on various dates and the same was also acknowledged behind the agreement and the petitioner issued two cheques to the respondent for a sum of Rs.5,00,000/- each for security purpose. As per the agreement, the respondent has to pay the remaining balance amount of a sum of Rs.3,99,00,000/- within a period of three months and after paying the entire amount, he will get the property in his name. But after three months, the respondent has paid only a sum of Rs.7,00,000/- and failed to pay the remaining amount. The respondent has presented the cheques for collection, but, the same was dishonoured as “insufficient funds”. Hence, the respondent filed a private complaint under Section 138 of the NI Act before the learned Judicial Magistrate No.II (Fast Track Court at Magistrate Level), Madurai, against the petitioner herein and the same was taken on file in S.T.C.No.325 of 2021.

3. When the matter was taken up for hearing, both the parties appeared before this Court and the petitioner has given a Demand Draft of a sum of Rs.9,00,000/- to the respondent. The respondent has also received the said Demand Draft.



4. The learned counsel appearing on either side would submit that since the parties have arrived at an amicable settlement by way of compromise among themselves, this Court may allow this petition.

5. When such a situation arose in similarly placed matters in Crl.O.P.(MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

“11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, any compromise between the victim and the offender in relation to the offences



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clubbed with Special Enactment, like Arms Act, the Prevention of Corruption Act, TNPPDL Act, TNPID Act or the offences committed by Public Servants while working in that capacity, etc., cannot provide for any basis for quashing criminal proceedings involving such offences. As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves. This Court feels that there cannot be any compromise in respect of the heinous and serious offences of mental depravity and in that case, the Court should be very slow in accepting the compromise. If the compromise is entertained mechanically by the Court, the accused will have the upper hand. The jurisdiction of this Court may not be allowed to be exploited by the accused, who can well afford to wait for a logical conclusion. The antecedents of the accused have also to be taken into consideration before accepting the memo of compromise and the accused, by means of compromise, cannot try to escape from the clutches of law.

6. Taking note of the judgments referred to supra, considering the nature of allegations, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in S.T.C.No.325 of 2021 on the file of the learned Judicial Magistrate No.II (Fast Track Court at Magistrate Level), Madurai, in respect of the petitioner/accused alone, are hereby quashed.



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7. Accordingly, this Criminal Original Petition is allowed on the basis of the compromise entered into between the parties.

Consequently, connected miscellaneous petitions are closed.

27.03.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes / No

TSG

To

1.The Judicial Magistrate No.II

(Fast Track Court at Magistrate Level), Madurai

2.The Additional Public Prosecutor,

Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

TSG

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