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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD). Nos.14100 and 15224 of 2020
and
Crl.M.P(MD).Nos.7342 and 7343 of 2020

Crl.O.P.(MD) No.14100 of 2020:

S.Mohamed Ansari ... Petitioner /Accused No.1

Vs.

1. The State rep. by its,
   The Deputy Superintendent of Police,
   Organized Crime Unit,
   Crime Branch Crime Investigation Department,
   Madurai.
   (Crime No.04 of 2017) ... Respondent /Complainant

2. Bharakath Nisha ... Respondent /De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the Charge sheet pending in PRC No.39 of 2018 on the file of the Judicial Magistrate No.4, Madurai, and quash the same as illegal as against the petitioner concerned.

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For Petitioner : Mr.M.Gurudas

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor for R1

: Mr.K.Karthick for R2

Crl.O.P.(MD) No.15224 of 2020:

Iruthayaraj ... Petitioner
/Accused No.2

Vs.

1. The State rep. by
The Deputy Superintendent of Police,
OCU, CBCID, Madurai City,
Madurai,
Crime No.4 of 2017 ... 1st Respondent
/Complainant

2. Barakkath Nisha ... 2nd Respondent
/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the impugned Charge sheet in P.R.C.No.39 of 2018 pending on the file of learned Judicial Magistrate IV, Madurai and quash the same in so far as it relates to the petitioner alone.

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For Petitioner : Mr.K.Samidurai

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor for R1

: Mr.R.Karunanidhi, for R2

COMMON ORDER

This petitions have been filed seeking to quash the proceedings in P.R.C.No.39 of 2018, on the file of the learned Judicial Magistrate No.IV, Madurai and quash the same as against the petitioners.

2. The marriage between the second respondent/defacto complainant and the petitioner in Crl.O.P.(MD).No.14100 of 2020/first accused was solemnized in the year 2004. Out of the marriage, two female children were born. Due to strained relationship between them, they were separated and the defacto complainant is living with her parents. Subsequently, as per the compromise entered between them in the Family Court, the above two children will be in the custody of the first accused and the defacto complainant got visitation rights to speak with her two children every two months in the presence of the Subramaniapuram Jamath. When the defacto complainant came to see her children on 06.08.2015, she met her elder daughter only. The first

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respondent taken away the second female child and where about of her was not known. Thereafter, the second respondent/defacto complainant lodged a "Child Missing" complaint in the Jaihindhpuram Police Station in Crime No.1270 of 2016 and also filed a Habeas Corpus Petition in H.C.P.(MD).No.1164 of 2016. Therefore, the investigation was transferred to CBCID on 29.05.2017 from Madurai City OCE, CBCID, Crime No.4 of 2017 as "Child Missing" case. After completion of investigation, the first respondent filed a charge sheet in P.R.C.No.39 of 2018, on the file of the learned Judicial Magistrate No.4, Madurai, for the offence under Sections 317, 406 and 420 of IPC in respect of the first accused/petitioner and for the offence under Sections 147, 317 and 370 (1) r/w 120(b) and 370(1) r/w 149 and 80 of Juvenile Justice (Care and Protection) Act, 2015, in respect of the Accused No.2 to 5 and Sections 147, 465 r/w Section 471, 370 r/w 120(B), 370 r/w 149 of IPC in respect of the Accused No.6 to 8.

3. The contention of the petitioner is that based on the complaint lodged by the second respondent, the first respondent registered First Information Report in Crime No.4 of 2017 for the offences punishable

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under Sections "Child Missing" @ 50 Juvenile Justice Act & 406, 420, 109 of IPC @ 50 Juvenile Justice Act & 406, 420, 109, 317, 370(1) of IPC @ 147, 317, 370(1), 465, 465 r/w 471, 370 r/w 120(B) and 370 r/w 149, 405, 420 of IPC and 80 of Juvenile Justice Act. After filing the charge sheet, the case was taken on file in P.R.C.No.39 of 2018, by the learned Judicial Magistrate No.IV, Madurai.

4. The petitioners filed this petition to quash the proceedings. Pending the same, the petitioners amicably settled their dispute with the second respondent. A joint memo of compromise is also filed and the same has been duly signed by the petitioners and the second respondent and also by their respective counsels.

5. The petitioners and the 2nd respondent appeared before this Court along with their respective counsels and also produced their Aadhar cards. They were also identified by the learned Additional Public Prosecutor and the Investigation Officer. Both the parties to compromise were enquired by me and they accepted the terms of compromise. Hence, the Compromise Memo is recorded.

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6. Considering the totality of the circumstances and the co-accused's quash petition is already allowed by this Court in Crl.O.P.(MD).No.11969 of 2018, the nature of the allegations levelled against the petitioners and also in view of the joint compromise memo, dated 06.11.2023, this Court is of the opinion that no useful purpose would be served by driving the petitioners to face the trial. Even though some of the offences are non-compoundable, considering the dispute is only between the husband and wife and their relatives, this Court is inclined to quash the proceedings in the interest of justice and to maintain peace and harmony in their life.

7. In the result, the Criminal Original Petition stands allowed and the entire proceedings in P.R.C.No.39 of 2018, on the file of the learned Judicial Magistrate No.IV, Madurai, is hereby quashed in respect of the petitioners and the terms of joint compromise memo shall form part of this order. It is needless to observe that this Court exercise the jurisdiction under Section 482 of Cr.P.C., considering the special circumstances of the case. Further, it is clear that this judgment cannot be

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treated as precedent. Consequently, the connected Miscellaneous Petitions are closed.

29.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate IV,
   Madurai.

2.The Deputy Superintendent of Police,
   OCU, CBCID, Madurai City,
   Madurai.

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

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K.K.RAMAKRISHNAN, J.

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