



CrI.MP.(MD)No.11121 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21/03/2023

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

CrI.MP (MD) No.11121 of 2023

in

CrI.OP (MD) No.18514 of 2022

Umadevi : Petitioner/3rd Party/
LW4

Vs.

1.M.Kaliappan
2.V.Krishna Kumar
3.V.Velusamy
4.M.Karuppasamy
5.N.Murugesan
6.C.Kuppusamy
7.M.Selvi
8.K.Kumarasamy
9.K.S.Krishnasamy
10.Devaraj
11.Thangavel
12.Vanjiappan
13.Muthusamy
14.Manivannan

: Petitioners 1 to 14/
Petitioners 1 to 14/
Accused 1 to 14

15.State rep. by its
Inspector of Police,
Anti-Land Grabbing Special Cell,
Dindigul District.
Dindigu.

: 15th Respondent/
1st Respondent/
Complainant

16.K.Manonmani
17.S.K.S.Sivayoki

: 16th and 17th Respondents/



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PRAYER:-Criminal Miscellaneous Petition has been filed seeking to recall the order made in Crl.OP (MD)No.18514 of 2022, dated 13/04/2023 and pass such other order and orders.

For Petitioner : Mr.T.Antony Arul Raj
For R1 to R14 : Mr.L.Dhilipan Pandian
For 15th Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

O R D E R

This Miscellaneous Petition has been filed seeking an order to recall the order of this court made in Crl.OP (MD)No.18514 of 2022, dated 13/04/2023.

2.The facts in brief:-

One Manonmani as de-facto complainant lodged a complaint against several persons making several allegations before the Additional Mahila Court, Dindigul, in Crl.MP No.6281 of 2020. On the basis of the direction issued by the Additional Mahila Court, Dindigul, a case was registered in Crime No.16 of 2020 for the offences under sections 120(B), 467, 468, 294(b), 420 and 506(ii) of IPC. After completing the investigation, final report was filed before the Special Court, Madurai, namely the Special Judicial Magistrate Court, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, taken cognizance in CC No.13 of 2022.



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3. Seeking quashment of the same, on the basis of the compromise, Crl.OP(MD)No.18514 of 2022 was filed. But that petition was filed on the ground of merit. Pending the matter, terms of compromise was reduced into writing by both parties. On that terms, a memo was also filed before the Court. After verification of the identity of the parties and ascertaining the terms of compromise, this court, by order, dated 13/04/2023 quashed the proceedings against the accused.

4. Now this Miscellaneous Petition is filed for recall of the order stating that proper facts were not brought to the notice of this court. The real aggrieved persons were not brought to this court for making the effective compromise.

5. Per contra, the learned counsel appearing for the private respondents would submit that this recall petition is not maintainable, since section 362 Cr.P.C bars the same. Absolutely, there is no grievance can be made by this petitioner. The interest of the parties is well protected as per the terms of the compromise to resolve the issue through civil process. So, according to him, even on merits, no recall need be effected.



6.The matter was heard on various days and the petitioner was firm in her stand that when herself is a aggrieved person and forgery and impersonation is alleged without hearing her, proceedings ought not to have been quashed. The petitioner has not come forward to make any compromise. On that account, the matter was heard.

7.No doubt that the petitioner also seems to be one of the aggrieved persons for the issue, so in her absence, the compromise is reached between the parties. Even if, the compromise is reached between the parties without her presence, the quashment would not affect her right to prosecute the matter further.

8.The problem lies in the form of the order of this court since the entire proceedings have been quashed. Reserving no right to prosecute the matter further to the petitioner, then the order passed by this court must be recalled leaving the parties to get disposal on merits.

9.In the above said factual aspect, section 462 Cr.P.C will not come in the way of recalling the order, because factually, it is a mistake not only on the part of the parties, but also on the part of this court in quashing the entire proceedings without hearing the other aggrieved persons.



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10. When the factual mistake is brought to the notice of this court, I am of the considered view that section 462 Cr.P.C will not close the door, while this court exercising the power of recall the order. On that account, the order passed by this court stands recalled.

11. In the result, this Criminal Miscellaneous petition is **allowed**. The order passed in Crl.OP(MD)No.18514 of 2022, dated 13/04/2023 is hereby **recalled**.

21/03/2024

Index:Yes/No
Internet:Yes/No
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To,

1. The Additional Mahila Court,
Dindigul.
2. The Special Judicial Magistrate,
Special Court for Exclusive Trial of
Land Grabbing Cases, Madurai.
3. The Inspector of Police,
Anti-Land Grabbing Special Cell,
Dindigul District.
Dindigul.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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