



Crl.O.P.(MD)No.16733 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.16733 of 2024 and
Crl.M.P(MD).No.10500 and 10501 of 2024

1.S.Nagaraj
2.M.Senthilmurugan
3.Kamalakannan
4.Karthick Raja
5.Kulothungan

... Petitioners 1 to 5/accused

Vs.

1.The state rep. by
The Sub Inspector of Police,
Oomachikulam Police Station,
Madurai.

.. Respondent / complainant

2.C.Krishnamurthy

... 2nd respondent / complainant

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the entire impugned proceedings in C.C.No.242 of 2016 on the file of the learned Judicial Magistrate No.II, Madurai in Crime No.448 of 2008 on the file of the Inspector of Police, Oomachikulam Police Station, Madurai and quash the same.

For Petitioners : Mr.V. Janaki Ramulu



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For R1

: Mr.K.Sanjai Gandhi
Government Advocate
(Criminal Side)

For R2

: Mr.A.Sivaprabhakaran

ORDER

This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to call for the records in C.C.No.242 of 2016 on the file of the learned Judicial Magistrate No.II, Madurai, and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that on 07.10.2008, when the second respondent herein along with one Suresh and Saravanan were going near TWAD Colony area, the petitioners herein have disconnected the cable belonging to the 2nd respondent. When the same was questioned by the 2nd respondent, the petitioners herein are said to have posed a life threat to him.

3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent



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and F.I.R. registered in Crime No.448 of 2008, after investigation, final report filed, the same taken cognizance in C.C.No.242 of 2016, on the file of the Judicial Magistrate No.II, Madurai for the offences under Sections 147, 427 and 506(i) IPC against the petitioners.

4. The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves. Now, both realized their mistakes, reconciled and second respondent agreeing to withdraw the complaint, not willing to pursue the case.

5. A Joint Memo of Compromise filed before this Court signed by the petitioners and the second respondent and their respective counsels. The petitioners and the second respondent present before this Court, identified by Ms.A.Jeyalakshmi, SSI, Tallakulam Police Station, as well as by the learned counsels appearing for the parties. This Court enquired both the parties, satisfied that the parties have come to an amicable settlement between themselves on their own voluntarily without any compulsion.



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6. In the instant case, where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Sections 147, 427 and 506(i) IPC.

7. The legal position expressed by the Hon'ble Apex Court in the case of *Gian Singh vs. State of Punjab and another* reported in (2012) 10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat* reported in (2017) 9 SCC 641 were taken into consideration.

8. In the light of the guidelines issued in the above said judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in C.C.No.242 of 2016 as against the petitioners pending before the learned Judicial Magistrate No.II, Madurai, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.242 of 2016, on the file of the Judicial Magistrate No.II, Madurai, is quashed as against the petitioners and the joint compromise memo shall form part and parcel of this order.



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Consequently, the connected Miscellaneous Petitions are closed.

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NCC : Yes / No
Index : Yes / No
smn2

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To

1.The Judicial Magistrate No.II, Madurai.

2.The Sub Inspector of Police,
Oomachikulam Police Station,
Madurai.

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



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M.NIRMAL KUMAR, J.

trp

Order made in
Crl.O.P.(MD)No.16733 of 2024 and
Crl.M.P(MD).No.10500 and 10501 of 2024

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