



Crl.O.P.(MD)No.18965 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.18965 of 2024

1.Aniba
2.Azath
3.Ibrahim
4.Ramjan Beevi

... Petitioners

Vs.

1.State of Tamil Nadu rep., through
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
Crime No.598 of 2015

2.Sulthan Alaudeen @ Alaudeen

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records of impugned charge sheet in CC.No.355 of 2018 on the file of the learned Judicial Magistrate Court No.VI, Madurai and quash the same as illegal as against the petitioners.

For Petitioners	: Mr.A.Abdulkabur
For R1	: Mr.K.Sanjai Gandhi
	Government Advocate
	(Criminal Side)



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For R2

: Mr.K.Sathiyendran

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 S. CC.No.355 of 2018 on the file of the learned Judicial Magistrate Court No.VI, Madurai and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that the defacto complainant's grandfather, paternal uncle of defacto complainant's father, namely Vavabhuhardeen and his wife, namely, Pitchayammal were residing at Keelamathur Village, Madurai District and maintaining their property. Since they have no issue, the defacto complainant's father is being their step-son and legal heir. Thereafter, they passed away. Knowing the same, sons of one Nagoor Pitchai, petitioners herein, trespassed into the deceased property and looted the document. In the year 2004, the petitioners opened an account in Primary Agricultural Co-operative Bank Ltd, A 2560, Kochadai in A/c No.A3713 in the name of deceased



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Vavabhuhardeen by using the same availed loan a sum of Rs.16,000/- from the Slum Clearance Board, Madurai. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent and F.I.R. registered in Crime No.598 of 2015, after investigation, final report filed, the same taken cognizance in C.C.No.355 of 2018, on the file of the learned Judicial Magistrate No.IV, Madurai, for the offences under Sections 120B, 417, 468, 471, 420, 419 and 465 of I.P.C. 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, the second respondent agreeing to withdraw the complaint, not willing to pursue the case.

5. It is also stated that the amount which was availed by the petitioners using dead person's name has been repaid.



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6. 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 Mr.N.Muthiah, SSI, Nagamalai Pudukkottai Police Station, Madurai District, 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.

7. 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 120B, 417, 468, 471, 420, 419 and 465 of I.P.C.

8. 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.



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9. 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.355 of 2018 as against the petitioners pending before the Judicial Magistrate Court No.VI, Madurai, even though, the offences involved are not compoundable in nature.

10. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.355 of 2018, on the file of the Judicial Magistrate Court NO.VI, Madurai, is quashed as against the petitioners and the joint compromise memo shall form part and parcel of this order.

NCC : Yes / No

13.11.2024

Index : Yes / No

Rmk

To

- 1.The Judicial Magistrate Court No.VI,
Madurai.
- 2.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Rmk

Order made in
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