



Crl.O.P.(MD)No.19776 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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1.Chithirai Selvan
2.Krishnan
3.Vijayapandi
4.Buvaneshwaran
5.Arul
6.Karthick

... Petitioners

Vs.

1.The State rep. by,
The Sub-Inspector of Police,
Veerapandi Police Station,
Theni District.
(Crime No.375 of 2023)

2.Ravimuthu

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records in P.R.C.No.11 of 2024, on the file of the learned
Judicial Magistrate, Theni and quash the same.

For Petitioners : Mr.R.Saravana Kumar

For R1 : Mr.K.Sanjai Gandhi

Government Advocate [Crl. Side]

For R2 : Mr.S.Ashok



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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 P.R.C.No.11 of 2024, on the file of the learned Judicial Magistrate, Theni, and quash the same as illegal.

2. The case of the prosecution is that the first petitioner and the de-facto complainant are relatives and they are carrying on the business of astrology prediction and there is a business enmity between them. On 17.10.2023, at about 06.00 p.m., de-facto complainant after watering his sugarcane field was resting. At that time, four persons came and asked for water. When de-facto complainant went to bring water, he was assaulted and his gold chain with dollar was snatched and taken away. The de-fact complainant went to Government Hospital, Theni on 18.10.2023 and from there intimation was sent to the respondent police who came there and registered a case.



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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.375 of 2023, after investigation, final report filed, the same taken cognizance in P.R.C.No.11 of 2024, on the file of the learned Judicial Magistrate, Theni, for the offences under Sections 109, 149, 392 and 397 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, for the reason, the petitioners and de-facto complainant are relatives and traditional astrologers, they had business rivalry and business rivalry lead to exchange of blows, the incident was exaggerated and projected as though it was an attack to snatch the chain and dollar. In fact, these articles were immediately recovered in the scene of occurrence, it was not a premeditated attack and both parties contributed to the happenings. Now, both realized their mistakes, reconciled and second respondent agreeing to withdraw the complaint, not willing to pursue the case.



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5. A Joint Memo of Compromise filed and de-facto complainant affidavit 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.K.Pounraj, Special Sub-Inspector of Police, Veerapandi Police Station, Theni 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.

6. In the instant case, the dispute is of personal in nature arise out of business rivalry and the parties had compromised. Where the parties have compromised the matter, the High Court has to power to quash the complaint even for non-compoundable offence. In this case, the business rivalry between relatives lead into fight. The de-facto complainant projected as though robbery committed but the articles were immediately recovered. It was only a fight for supremacy in the traditional occupation



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of Astrological prediction. Now realizing the reality, the de-facto complainant had come forward to withdraw the case. The petitioners who are relatives of de-facto complainant have no bad antecedents. In view of the above facts, it would be just to quash the proceedings, so that substantive justice can be done.

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 P.R.C.No.11 of 2024, as against the petitioners pending before the learned Judicial Magistrate, Theni, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.11 of 2024, on the file of the learned Judicial



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Magistrate, Theni, is quashed as against the petitioners and the joint compromise memo shall form part and parcel of this order.

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NCC : Yes / No
Index : Yes / No
MR



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To

- 1.The Sub-Inspector of Police,
Veerapandi Police Station,
Theni District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

MR

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