



Crl.O.P.No. 26511 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.26511 of 2024 and
Crl.M.P.No.14751 of 2024

1.Ashok Kumar
2.D.Rajendiran
3.R.Sumathi
4.S.Anitha
5.N.Saran Raj
6.R.Raj Kumar
7.Rathika
8.Sudha

... Petitioners

Vs.

1.State represented by,
its Inspector of Police,
W6 All Women Police Station Aynavaram,
Chennai 600 023.

2.S.Girija Ishwarya

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.33 of 2024 pending before the Additional Mahila Court, Egmore and quash the same.



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For Petitioners : Mr.S.Haja Mohideen Gisthi

For R1 : Mr.R.Vinothraja,
Government Advocate (crl.side)

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.33 of 2024 pending before the Additional Mahila Court, Egmore.

2. The case of the prosecution is that on 20.03.2021, the defacto complainant lodged a complaint against the petitioners alleging that the first petitioner (Accused No.1) had married her by deceit, coerced her into terminating her pregnancy and subsequently, along with the other accused, physically assaulted her. Pursuant to the said complaint, the first respondent registered a case in Crime No.3 of 2021 for the offences punishable under Sections 498(A), 323 and 506(2) of IPC and the same has been taken cognizance in C.C.No.33 of 2024 on the file of the Additional Mahila Court, Egmore.



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3. The learned counsel for the petitioners would submit that the dispute between the parties has been amicable resolved through a Memorandum of Understanding. Pursuant to the settlement, both parties have obtained a decree of divorce by mutual consent. The Second respondent had also agreed to withdraw the criminal complaint. It is further submitted that continuing the proceedings would amount to abuse of process of law. Hence, he seeks to quash the proceedings in C.C.No.33 of 2024.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) appearing for the first respondent. Though notice was served on the second respondent, no one appeared either in person or through pleader.

5. On perusal of records, it is evident that after the complaint was lodged by the second respondent, a Memorandum of Understanding was entered into between the first petitioner and the second respondent which read as follows:



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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is executed at Chennai on this the 27 day of September, 2022;

Between

MR. R. Ashok Kumar S/o. D.Rajendhiran aged about 29 Years, Hindu residing at No: 603A, Marudhamalai Murugan Nagar, KK Road, Villupuram 605602 hereinafter called as the "First Party" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include her successors, legal representatives and permitted assigns);

And

Ms. S. Girijalyswaryah D/o. G.N. Sellathurai aged about 25 Years, Hindu residing at No.: 2/2, Somiya Street, Agaram, Chennai 600082. hereinafter called the "Second Party" (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include his successors, legal representatives and permitted assigns);
Whereas each of the parties mentioned above, are hereinafter collectively referred to as the "Parties" and individually as a "Party".

Whereas the said Parties solemnized their marriage on 22.06.2018 before the office of the Joint - Sub Registrar II at Cuddalore. the said marriage was registered



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as Marriage Serial No: 1109/2018 Thereafter the said Parties were living together and there is no issue born out of the said wedlock.

1. Whereas due to the continuous and strong difference of opinion between the First Party and the Second Party, they found themselves incompatible with each other and the same resulted in their separation. In spite of various negotiations held on various occasions by the elders and well-wishers of both families of the First & Second Party, the Parties have not been able to reunite. Hence, the Parties have made up their mind to live separately and they mutually agreed to dissolve their marriage in their best interest as well as in the interest of their family members. There is no possibility for any kind of reconciliation from either side. Further the matrimonial bond between the First & Second Parties got broken beyond retrieval and both the Parties got separated and leading their life separately from 20.10.2019 till now.

Now both the First & Second Parties agreed to part ways and settle all the disputes between them amicably by filing a joint Petition for mutual divorce on the further terms and conditions as mentioned below



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THIS MOU WITNESSETH AS FOLLOWS;

- 1. The First Party & Second Party agreed to file a Mutual Divorce Petition under Section 13(B) of Hindu Marriage Act, 1955 in order to dissolve their marriage held on 22.06.2018 before the office of the Joint Sub Registrar -11 at Cuddalore.*
- 2. It is understood between both the Parties that Mutual Divorce Petition will be filed as early as possible preferably within a period of 1 week from the signing of the present MOU and the second motion petition u/s 13 B (2) of Hindu Marriage Act, 1955 shall be filed in the next hearing (i.e) six months from the grant of first motion petition.*
- 3. The Parties have agreed that they will cooperate with each other for filing the First Motion Petition u/s 13 13(1).of the Hindu Marriage Act, 1955, as well as the Second Motion Petition u/s 13 13(2) of the Hindu Marriage Act, 1955 and both the Parties shall appear before the respective court to make necessary statements.*
- 4. Both the Parties have returned all their marital and Stridhana gifts including Gold Jewelry. Silver Articles, House hold Articles and Clothing. Therefore. neither of them has any claim nor interest over any movable or immovable property against the other Party.*
- 5. The Parties shall not claim any right or interest over any of the present /future movable / immovable properties*



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belong to the Other Party or his/her family members.

6. The First Party agrees to pay Rs. 5,00,000/- (Rupees Five Lakhs Only) by way of Demand Draft to the Second Party as permanent alimony after filing the first motion Petition u/s 13 B of the Hindu Marriage Act, 1955 before the concerned Court to dissolve their marriage.

7. The Parties hereby undertake not to claim any maintenance either for the past or for the future period from the Other Party. The Parties shall not have any other claim or maintenance over the Other Party in future regarding their Matrimonial Relationship.

8. The Parties shall withdraw all the Criminal Complaints (if any) lodged against the Other Party and his/her family members.

9. The Parties shall not file any case, other than the Mutual Divorce Petition, against each other and further undertake not to file any case against the family members of each Party for whatever the reason may be with any court of law in India / Abroad any Authority/s or Legal Forum.

10. Both the Parties declare that there are no cases / litigations filed or pending against each other regarding their matrimonial life.

11. The Parties agreed that any Criminal Case, Complaint, Claim or Appeal filed against each other, whether known or unknown, where summon/notice has been issued or not,



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shall be null & void and shall be treated as withdrawn/quashed after grant of Decree of Divorce to the Parties.

12. It is agreed by both the Parties that they would not have any communication or contact with each other, with each other's friends, family members or relatives with regard to their matrimonial life. Neither of the Parties shall create any situation which may defame or tarnish the reputation of other Party nor their family members in the society and they shall not enter into each other's residence or workplaces as well.

13. The Parties are at free will to get married to the person of their choice after the dissolution of their marriage by a Decree of Divorce by mutual consent.

14. The Parties hereby indemnify and undertake to keep the Other Party indemnified against any claim, expenses, costs including reasonable attorney fees arising due to any omission or commission, whatsoever, on the part of the Parties or its agents or representatives or servants.

15. The Parties agree that the aforesaid terms and conditions have been entered into between the Parties with their free consent and the consent of their respective family members, with their own will and without any force, undue pressure, influence, misrepresentation or mistake (both law and fact) in any form, and statement, agreement has been



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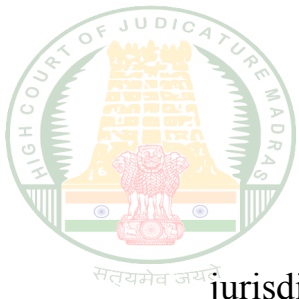


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correctly recorded, the aforesaid agreed terms are without any inducement or coercion from any corner whatsoever.”

As per clause No.8 of the said Memorandum, the second respondent undertook to withdraw the criminal complaints. However, though notice was issued to the second respondent in the present petition, it was returned as “unclaimed”, which indicates that the matter has been settled between the parties. That apart, pursuant to the said Memorandum of Understanding, the first petitioner and the second respondent obtained a decree of divorce by mutual consent in O.P.No.4621 of 2021 dated 14.11.2022 on the file of the VI Additional Principal Family Court, Chennai.

5. Under such circumstances, no useful purpose will be served in keeping the proceeding pending, even though, the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in **2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath)**, this Court in exercise of its



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jurisdiction under Section 528 of BNSS, 2023, quashes the proceeding in in C.C.No.33 of 2024 pending before the Additional Mahila Court, Egmore.

6. In view of the above, the proceedings in C.C.No.33 of 2024 pending before the Additional Mahila Court, Egmore, is hereby quashed as against the petitioners. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

25.04.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk

To

1. The Additional Mahila Court, Egmore.

2. The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar,
Chennai 600 040.

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High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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