

Crl.O.P(MD)No.4888 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD)No.4888 of 2024
and Crl.M.P(MD) No.3830 of 2024

1. Eswaran
2. Vaitheeswaran
3. Stalin
4. Jayaprabhu
5. Vignesh
6. Guna @ Gunasekaran
7. Chinnu @ Chinnathevar
8. Parthiban
9. Karuppaiya
10. Paramasivam

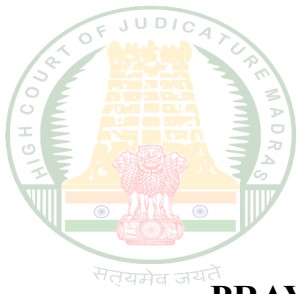
... Petitioners

Vs

The Inspector of Police,
Chinnamanur Police Station
Theni District.
Crime No.655/2016

Karuppayi (Died).

... Respondent



CrI.O.P(MD)No.4888 of 2024

WEB COPY

PRAYER: Criminal Original petition has been filed under Section 528 of BNSS to call for records pertaining to the CC No.131/2020 subsequently renumbered as CC No.283/2023 the file of the Learned Judicial Magistrate, Fast Track Court, Uthamapalayam and Quash the proceedings as against the Petitioners.

For Petitioners : Mr.S.Ramu

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the case in CC No.283 of 2023 on the file of the learned Judicial Magistrate, (Fast Track Court), Uthamapalayam.

2.The learned counsel for the petitioners would submit that based on the complaint given by the second respondent, a case in Cr.No. 655 of 2016 has been registered. Thereafter, after completion of investigation, respondent police filed a final report and the same has been taken on file in CC No.283 of 2023, on the file of Judicial Magistrate (Fast Track Court), Uthamapalayam.



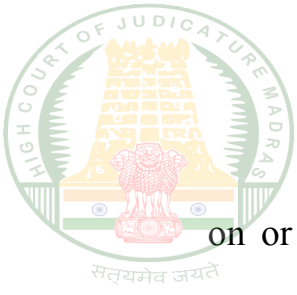
Crl.O.P(MD)No.4888 of 2024

3.Already the petitioners have filed a petition before this

Court to quash the proceedings in Crl.O.P(MD) No.15809 of 2020.

During the pendency of proceedings, the petitioners along with the defacto complainant have entered into a compromise and filed a compromise memo. On 08.04.2022 this Court has allowed the petition and quashed the proceedings in CC No.131 of 2020. However, this Court has directed the petitioners to pay a sum of Rs.5,000/- (Rupees Five Thousand only) towards costs, to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No. 11720 10000 00070, IFSC Code: IOBA0001172) on or before 27.04.2022 and the receipt for payment shall be produced before the concerned Court, failing which, the order shall stand dismissed automatically without any further reference to this Court.

4.Since the petitioners were unable to pay the above said conditional amount as directed by this Court within the period fixed by this Court, they have deposited the said amount only on 22.09.2022. In this regard, they have also filed a memo before the trial Court. However, the memo has not been accepted by the trial Court on the ground that as per the order of this Court, if the petitioners failed to deposit the amount



Crl.O.P(MD)No.4888 of 2024

on or before 27.04.2022, the order shall stand dismissed without any reference to the Court.

5.Since the A1, who was suffering from throat cancer for nearly 18 months, died on 12.12.2023 and other accused persons A3, A5, A6, A8 and A9 were also passed away during the pendency of the case and the petitioners have also paid the above said amount and therefore, the order passed by the learned Magistrate refusing to accept the receipt of cost is liable to be set aside. Hence, this petition.

9.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that already this Court has passed a conditional order to quash the proceedings. Since the condition as directed by the trial Court has not been complied with by the petitioners within the stipulated time, the trial Court has refused to record the receipt of payment. There is no infirmity in the said order passed by the trial Court.

10.Heard the learned counsels appearing on both sides and perused the available records.



Crl.O.P(MD)No.4888 of 2024

WEB COPY

11.On a perusal of records, it is seen that this Court already recorded the compromise, thereafter, quashed the case on condition that to pay a sum of Rs.5,000/- on or before 27.04.2022, failing which, the order shall stands dismissed without reference to this Court. Once this Court recorded the compromise and quashed the proceedings, there is no question of automatic dismissal. Therefore, after quashing the case proceedings, this Court cannot pass orders without affording opportunity to the parties and automatic dismissal of the case without any further reference will no way affect the compromise. After recording the compromise, this Court cannot pass such kind of order as automatic dismissal, more over the delay in complying the condition no way affect the compromise.

12.In view of the above, the conditional order passed by this Court is in no way affect the compromise entered between the parties and since the petitioners have also paid the aforesaid amount on 22.09.2022, the trial Court is directed to receive the above said amount and act in accordance with law.



Crl.O.P(MD)No.4888 of 2024

13. With the above observations and directions, this petition

stands closed. Consequently, connected miscellaneous petition is closed.

01.04.2025

Internet : Yes

Index : Yes/No

NCC : Yes/No

PNM

To

1. The Judicial Magistrate, Fast Track Court, Uthamapalayam

2. The Inspector of Police,
Chinnamanur Police Station
Theni District.
Crime No.655/2016

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



WEB COPY



Crl.O.P(MD)No.4888 of 2024

P. DHANABAL, J.

PNM

ORDER IN
Crl.O.P(MD)No.4888 of 2024
and Crl.M.P(MD) No.3830 of 2024

01.04.2025