



Crl.O.P.(MD)No.22618 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22618 of 2024

and

Crl.M.P.(MD)No.14113 of 2024

1.Stephen
2.Bala Subramani
3.Leon
4.Antony Matharasan

... Petitioners

Vs.

1.The State of Tamil Nadu, through its,
The Inspector of Police,
CBCID South, Kanyakumari,
Kanyakumari District.
(Crime No.1 of 2024)

2.Meenakshi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of the B.N.S.S., to call for the records pertaining to Crime No.1 of 2024, dated 21.08.2024, on the file of the Inspector of Police, CBCID South Kanyakumari, Kanyakumari District and quash the same.

For Petitioners : Mr.A.Mohamed Asif



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For R1 : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal side)

For R2 : Mr.P.Shanmugavel

ORDER

The petitioners, who are accused in Crime No.1 of 2024 for offences under Sections 120(B), 416, 418, 419, 420, 467, 468, 469, and 471 of the Indian Penal Code (I.P.C.), have filed the quash application, invoking Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to quash the proceedings in the above said crime number.

2. The case of the prosecution is that the second respondent (the de-facto complainant) lodged a complaint against the petitioners. Earlier, a case in Crime No.53 of 2015 was registered by the District Crime Branch, which was later transferred to the present respondent's file on the orders of this Court. Subsequently, Crime No.1 of 2024 was registered.

2.1. According to the de-facto complainant, her late husband Subramanian had purchased a plot measuring 11-3/8 cents in Survey No. 545/5 at Agastheeswaram Village on 11.01.2000, from Ramachandran and Rethinakumari. The transaction was registered as Document No.295 of 2000. Subsequently, on 16.01.2008, due to urgent business needs and



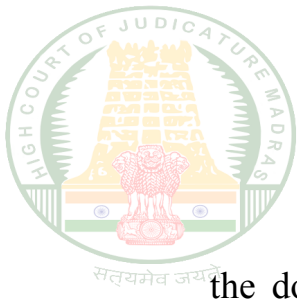
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to take a loan from the first petitioner (A1), the original title deeds were handed over to A1. The de-facto complainant and her husband regularly repaid the interest on the loan, and by 26.12.2010, the full loan was repaid.

2.2. On 01.10.2011, when the de-facto complainant and her husband requested the return of the original title deeds, the first petitioner informed them that the documents had been misplaced, and later, he informed that they had been lost. On 03.03.2011, a Power of Attorney (Document No.128 of 2011) was executed in favour of the first petitioner. Using the said Power of Attorney, the first petitioner executed a sale deed on 16.08.2011 in favour of Antony Benito. Subsequently, Antony Benito executed a sale deed on 06.03.2012 in favour of Boopathi, who later executed another sale deed in favour of Matlin Shiyama.

2.3. The property was mortgaged by A1 to A5 with Canara Bank, Kanyakumari Branch. Upon investigation, the de-facto complainant came to know that A2 (the document writer), A3 (the impersonator), and A4 and A5 (the witnesses who identified the impersonator and witnessed



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the document) had conspired together to create forged documents and encumbrances on the property. Hence, the complaint was lodged.

2.4. The de-facto complainant had also filed a civil suit in O.S.No. 8 of 2017 to protect the property. After the investigation, the statement of the de-facto complainant was recorded, and the necessary documents were collected. The investigation is still in progress. At this stage, the de-facto complainant and the petitioners have reached a compromise and have now filed a joint compromise memo based on the agreement they arrived at.

3. The learned counsel for the petitioners contends that the de-facto complainant, after the death of her husband, was without proper guidance and, in haste, lodged a complaint alleging that the petitioners had committed forgery. It was pointed out to the de-facto complainant that her late husband had previously executed a registered Power of Attorney (Document No.128 of 2011). Based on the said power and authorization, the sale deed was executed, and the de-facto complainant's husband was aware of the transaction and had received a payment. Now, the de-facto complainant, having realized the value of the property, has



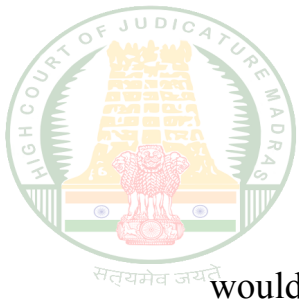
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agreed to a compromise, provided the payment is made according to the market value.

3.1. The learned counsel further submits that on 29.11.2024, both the first petitioner and the second respondent (the de-facto complainant), along with her two daughters, R.Sintha and S.Kala, entered into a compromise. They agreed to ratify the actions of the petitioners, not to create any further rights over the property, and recognized the present owner, Matlin Shiyama, as the rightful owner. The de-facto complainant also undertook to withdraw the civil suit in O.S.No.8 of 2017 and the criminal case in Crime No.53 of 2015, which has been re-registered as Crime No.1 of 2024.

3.2. The learned counsel further submits that according to the agreement, a total amount of Rs.53,00,000/- was paid, as per the market rate for the property. This amount was paid through demand drafts drawn on the State Bank of India, Kanyakumari Branch, between 30.10.2024 and 27.11.2024, in ten installments. Further, it was agreed that the de-facto complainant, Meenakshi (W/o.Late Subramanian), along with her daughters, R.Sintha and S.Kala (the legal heirs of Late Subramanian),



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would execute a sale deed in favour of Matlin Shiyama. The second respondent has also submitted a letter to the first respondent Police confirming the compromise, the receipt of Rs.53,00,000/-, and the intention to execute the sale deed in favour of Matlin Shiyama by the legal heirs of late Subramanian. Therefore, as per the compromise, nothing further remains for adjudication, and the petitioners have prayed for the quashing of the proceedings in Crime No.1 of 2024 on the file of the first respondent Police.

4. The learned Government Advocate (Criminal side), on the other hand, submits that, based on the complaint of the de-facto complainant, an initial case in Crime No.53 of 2015 was registered by the District Crime Branch, Kanyakumari. However, there was minimal progress in the investigation, and the case was eventually put in cold storage. The de-facto complainant then filed a direction petition before this Court in Crl.O.P.(MD)No.4010 of 2024. Upon finding that the District Crime Branch was not properly investigating the case, this Court transferred the investigation to the present respondent, namely, the C.B.C.I.D. The case was re-registered by the C.B.C.I.D. on 21.08.2024, and the investigation is now ongoing. Statements from some witnesses have been recorded,



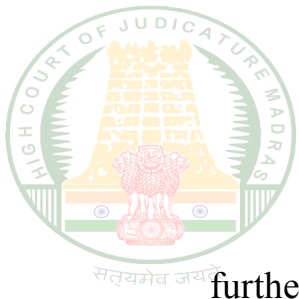
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and some documents have been collected. In the meantime, the second respondent (de-facto complainant) filed a compromise agreement and a letter indicating that she no longer intends to pursue the complaint and seeks the closure of the case. The compromise was verified, and it was confirmed that it was made without any force, threat, or coercion. The payment of Rs.53,00,000/- has been confirmed, and the legal heirs of Subramanian have acknowledged the receipt of this amount through demand drafts.

4.1. The learned Government Advocate (Criminal side) further submits that the execution of the Power of Attorney by the late Subramanian in favour of the first petitioner (A1) is not in dispute. Regarding the execution of one particular document, there is some doubt, which can only be clarified upon completion of the investigation. Apart from this one incident, there have been no similar actions by the petitioners.

4.2. Now, the petitioners and the second respondent (de-facto complainant) have reached a compromise. The second respondent has appeared before this Court, confirmed the compromise and the receipt of Rs.53,00,000/-, and stated that she is not willing to pursue the complaint



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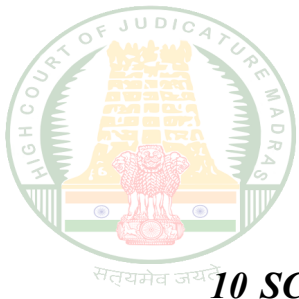
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further. She also confirmed that she and her daughters, namely, R.Sintha and S.Kala, who are the legal heirs of the late Subramanian, have agreed to execute a sale deed in favour of Matlin Shiyama. Consequently, the encumbrance on the property has been cleared.

5. A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioners and the second respondent and also by their respective counsels. The petitioners and the second respondent are present before this Court and and they were identified by the respondent Police as well as by the learned counsels appearing for the parties. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. In the instant case, the parties have now compromised the issue. Where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Sections 120(B), 416, 418, 419, 420, 467, 468, 469, and 471 of the I.P.C.

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)



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10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat*

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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 Crime No.1 of 2024, as against the petitioners pending before the respondent Police.

9. In view of the above, this Court hereby quashes the proceedings pending against the petitioners (A1, A2, A4, and A5), including A3, in Crime No.1 of 2024, on the file of the respondent Police. Accordingly, this Criminal Original Petition is allowed. The joint compromise memo shall form part and parcel of this order. Consequently, connected Miscellaneous Petition is closed.

28.01.2025

NCC : Yes / No

Index : Yes / No

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To

1.The Inspector of Police,
CBCID South, Kanyakumari,
Kanyakumari District.

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



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M.NIRMAL KUMAR, J.

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Order made in
Crl.O.P.(MD)No.22618 of 2024

Dated: 28.01.2025



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M.NIRMAL KUMAR, J.

Today, the matter is listed under the caption "For Being Mentioned".

2.It is submitted that in the order dated 28.01.2025, the petitioner's counsel name has been wrongly mentioned as 'A.Mohamed Asif' instead of 'P.M.Vishnuvarthanan'.

3.The Registry is directed to carry out the correction and issue fresh copy of the order dated 28.01.2025.

4.The issue is clarified, accordingly.

26.03.2025

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M.NIRMAL KUMAR, J.

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26.03.2025