

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.25750 of 2012
and M.P.No.1 of 2012

S.Kumanan

...Petitioner

vs.

J.Gopinath

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in Crl.M.P.No.950 of 2010 in C.C.No.4160/2005 on the file of XVI Metropolitan Magistrate, George Town, Chennai and set aside the same.

For Petitioner : Mr.Devadason
For Respondent : No. Appearance

O R D E R

This petition is filed challenging the order passed in Crl.M.P.No.950 of 2010 in C.C.No.4160/2005 on the file of XVI Metropolitan Magistrate, George Town, Chennai.

2. The petitioner is the accused in that case and it is submitted by the learned counsel for the petitioner that the respondent/complainant initially filed a petition to recall him on 14.09.2009 and during the pendency of that petition, without withdrawing the same, he filed another petition in Crl.M.P.No.950 of 2010 for the same relief on 16.08.2010 and on the same day, it was allowed by the learned Magistrate without giving any opportunity to the petitioner to file counter affidavit. He therefore submitted that the order dated 16.08.2010 allowing Crl.M.P.No.950 of 2010 is to be set aside.

3. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the typed set of papers that against the order passed in Crl.M.P.No.950 of 2010 in C.C.No.4160/2005, the petitioner filed Crl.Rc.No.1506 of 2011 and that was allowed to be withdrawn and the revision was dismissed. Though it is submitted by the learned counsel for the petitioner that he made an endorsement seeking liberty to file a fresh petition, the order does not say so about the liberty granted to the petitioner to

file petition against the order passed in Crl.M.P.No.950 of 2010. As the criminal revision was filed against the said order and it was allowed to be withdrawn, it is not open to the petitioner to file another petition challenging the same.

4. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm
To

1. The XVI Metropolitan Magistrate, George, Town, Chennai.
 2. -do- Through the Chief Metropolitan Magistrate Chennai.
- + 1 cc to M/.Devadasan, Advocate SR.17391

RSK(CO)
EU 08.04.2015

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