

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

Crl.M.P.No.11040 of 2017
in
Crl.R.C.No.SR37939 of 2017

R.Selvaraj

...Petitioner

Vs.

State Rep by the
Inspector of Police, CCIW CID,
Salem in Cr.No.3/2010.

... Respondent

Prayer in MP: Petition filed under Section 482 of Cr.P.C. to dispense with the production of the original impugned order in Cr.M.P.No.5097 of 2016 in C.C.No.103 of 2011, dated 17.02.2017, pending disposal of the main revision petition.

Prayer in Crl.R.C.:- Petition filed under Section 397 r/w 401 of Cr.P.C. To call for the records in order of learned Judicial Magistrate No.III, Salem in Crl.M.P.No.5097 of 2016 in C.C.No.103 of 2011, dated 17.02.2017 and set aside the same.

For Petitioner : Mr.M.Gururaj

For Respondent : Mr.C.Iyapparaj
Additional Public Prosecutor

ORDER

This petition has been filed to dispense with the production of the original order passed in C.M.P.No.5097 of 2016 in C.C.No.103 of 2011 on the file of the learned Judicial Magistrate No.III, Salem. By the said order, the learned Magistrate has dismissed the petition filed by the petitioner to discharge him from the charges framed against him. As against the said dismissal order i.e., order in C.M.P.No.5097 of 2016 admittedly the petitioner had already approached this Court by filing Crl.R.C.No.666 of 2017. However, the learned counsel appearing for the petitioner on 28.04.2017 had withdrawn the said criminal case. Accordingly, the said criminal case was dismissed as withdrawn. The order to that effect reads as follows:-

"The learned counsel appearing for the petitioner seeks permission of this Court to withdraw this criminal revision case and he has also made an endorsement to that effect.

2. In view of the submission and also the endorsement made by the learned counsel for the petitioner, this criminal revision case is dismissed as withdrawn. Consequently, connected miscellaneous petitions are closed. No Costs."

2. Now, against the very same order i.e., the order rejecting the

discharge petition made by the learned Magistrate in C.M.P.No.5097 of 2016 in C.C.No.103 of 2011, the present revision case in Cr.R.C.No.SR37939 of 2017 has been filed through the very same counsel.

3. The learned counsel appearing for the petitioner submits that since the original order passed in C.M.P.No.5097 of 2016 had been filed as the impugned order in the earlier case i.e., CrI.R.C.No.666 of 2017 and the same had been dismissed as withdrawn, the original certified copy of the impugned order is not available with the petitioner. Therefore, the present revision case has been filed with this petition to dispense with the production of the original order made in C.M.P.No.5097 of 2016.

4. This Court is afraid that once the revision case has been filed against the order passed by the trial Court and the same had been dismissed as withdrawn, without any right being reserved in this regard with the petitioner, how the present revision case once again be filed against the very same order by the petitioner through the very same

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rts

counsel. More over, the present petition has been filed without mentioning any reason, for dispensing with the production of the original impugned order.

5. Once the remedy has been exhausted and the case filed has been dismissed by this Court, of course, on the basis of voluntary withdrawal on the part of the petitioner, the very same party cannot agitate against the very same impugned order, once again before the very same forum. It is nothing but abuse of process of law and hence this Court has no hesitation to reject this petition. Accordingly, the present petition is dismissed.

01.09.2017

Speaking/Non speaking order

Index :Yes/No

Internet :Yes/No

rts/smn

To

The Presiding Officer,

The Judicial Magistrate No.III, Salem.

CrI.M.P.No.11040 of 2017
in CrI.R.C.No.SR37939 of 2017