

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Cr1.O.P.No.23591 of 2017

M.Asokan

..Petitioner

Vs.

The state by
Inspector of Police,
F-3, Nungambakkam Police Station,
Chennai 600 034.

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for all the records pertaining to the C.C.No.1787 of 2013 on the file of the learned XIV Metropolitan Magistrate, Chennai and quash the same.

For Petitioner : M/s. J.Thilagaraj

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor.

ORDER

This petition is filed seeking to call for all the records pertaining to the C.C.No.1787 of 2013 on the file of the learned XIV Metropolitan Magistrate, Chennai and quash the same.

2. The petitioner along with one Nagaimugan has been charged for the offences under Sections 385 and 506(ii) of IPC r/w 34 of IPC. The petitioner herein has been arrayed as second accused in the aforesaid case. According to the complaint, the dates of occurrence are 02.07.2008 and 08.12.2008. The complainant specifically implicated the first accused as the main person to have committed the offences. With regard to the dates of occurrence alleged by the petitioner, the learned counsel for the petitioner has produced sufficient materials from the petitioner's employers office under the RTI Act, from which it is evident that the petitioner was on duty at the time when the alleged occurrence is said to have taken place. Though the occurrence took place on the aforesaid two dates, the complaint came to be lodged only on 06.07.2009 and after more than three years, the charge sheet came to be filed in the year 2012. As such the offence under Section 385 of IPC which imposes punishment of two years alone, has to be construed as not

maintainable as against the petitioner, since the charge sheet has been filed after three years. In so far as the offence under Section 506 (ii) IPC r/w 34 IPC is concerned, the averments made in the complaint shows that the petitioner was accompanying the first accused, against whom the main allegation has been made. Apart from that, sufficient materials have not been relied upon to constitute the said offence. In the result, I am of the view that both the offences have not been made out as against the petitioner. It is now brought to my notice that the first accused against whom the main allegation has been made, has died. In the absence of the offences being made out and the first accused having died, there cannot be any logical conclusion to the trial if allowed to be proceeded with.

3. Accordingly, this criminal original petition stands allowed and the proceedings in C.C.No.1787 of 2013 on the file of the learned XIV Metropolitan Magistrate, Chennai are quashed in so far as the petitioner herein is concerned.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dpq

To

1. Do Thro The Chief Metropolitan Magistarte
Chennai.
2. The XIV Metropolitan Magistrate
Chennai.
3. Inspector of Police, सतयामेव जयते
F-3, Nungambakkam Police Station,
Chennai 600 034.
4. The Public Prosecutor,
High Court, Madras.

+1 CC to M/s. J.Thilagaraj, Advocate sr 84172.

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SP(06/12/2017)