

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.26032 of 2018 and
CRL.MP.No.14957 of 2018

V.Praba @ Prabakaran

...Petitioner/Accused No.5

Vs.

1.State rep by:

The Inspector of Police,
R-6, Kumaran Nagar Police Station,
Chennai.

Cr.No.1199 of 2014. ...1st Respondent/Complainant

2.S.Ansari

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.4608 of 2014 on the file of the Learned XXIII Metropolitan Magistrate Court at Saidapet, Chennai and quash the same.

For Petitioner : Mr.V.Purushothaman

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in C.C. No.4608 of 2014, pending on the file of the Learned XXIII Metropolitan Magistrate Court at Saidapet, Chennai.

2. The petitioner has been arrayed as A5 in the final report. The respondent/police has filed the final report against five accused persons for the offences under Sections 148, 294(b), 323, 324 and 506(ii) of IPC. The learned counsel for the petitioner raised several grounds to justify the quashing of the proceedings insofar as the petitioner is concerned. The grounds raised by the petitioner are factual in nature and this Court cannot appreciate those facts in exercise of its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise all the grounds before the Court below and the Court below shall consider the same on its own

merits and in accordance with law.

3. The learned counsel for the petitioner would submit that even though the case is of the year 2014, even charges have not been framed in this case. The learned counsel would further submit that the petitioner is a law graduate and he has been made to face the proceedings for the last five years without there being any improvement in the case. Therefore, the learned counsel would request that the presence of the petitioner shall be dispensed with before the Court below.

4. Taking into consideration the facts and circumstances of the case, the presence of the petitioner shall be dispensed with before the Court below. The petitioner shall be represented by his counsel. The petitioner shall be present before the Court below at the time of framing charges, at the time of questioning under Section 313 of Cr.P.C and at the time of passing of the final judgement. The counsel representing the petitioner shall cross-examine the witnesses on the same day when they are examined in-chief and the petitioner shall not dispute his identity to any witness.

5. Thus, the Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

kal/rst
To

1.The Inspector of Police,
R-6, Kumaran Nagar Police Station,
Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

+1 CC to Mr.V.Purushothaman, advocate sr 77073.

CRL.O.P.No.26032 of 2018
and
CRL.MP.No.14957 of 2018

MR(CO)
SP(28/11/2018)