



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.19550 of 2013

R.Subramanian

... Petitioner

Vs.

Rajeev Bakshi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the cognizance in C.C.No.2988 of 2012 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai and further direct that an enquiry be conducted in terms of the amended Section 202 of the Cr.P.C. and thereafter proceed in the matter in accordance with law.

For Petitioner : Mr.R.Subramanian for
M/s.Prakash Gokalaney

ORDER

This criminal original petition has been filed seeking to set aside the cognizance in C.C.No.2988 of 2012 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai.

2 The learned counsel appearing for the petitioner would submit that the petitioner is complainant in the above calender case and since without complying the provisions under Section 202, cognizance was taken on the complaint filed by the petitioner, after service of summons the respondent/accused may take the advantage of the above point. The learned counsel has placed his reliance on the decisions of the Hon'ble Supreme Court reported in 2013 (1) MWN (Cr.) 545 and (2013) 2 SCC 488. Therefore the petitioner seeks to set aside the cognizance in C.C.No.2988 of 2012 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai, and further direct that an enquiry be conducted in terms of the amended Section 202 of the Cr.P.C. and thereafter proceed in the matter in accordance with law.

3 Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4 It is seen that the petitioner has preferred the complaint before the learned XIV Metropolitan Magistrate, Egmore, Chennai, and the Magistrate has also taken cognizance of the same and assigned C.C.No.2988 of 2012, without



following the procedures contemplated under Section 202 Cr.P.C. In the cases relied on by learned counsel appearing for the petitioner stated supra, the Hon'ble Supreme Court has clearly held that in the case of non compliance of procedures under Section 202 Cr.P.C, the Magistrate has to redo the matter.

5 In view of the above principles laid down by the Hon'ble Supreme Court, this criminal original petition is allowed and the Magistrate is directed to redo the matter after complying the procedures contemplated under Section 202 of Cr.P.C and proceed further in accordance with law.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

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To

The XIV Metropolitan Magistrate,
Egmore, Chennai.

Cr1.O.P.No.19550 of 2013

SSI (CO)
GN(20/12/2019)