

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.22451 of 2013
and M.P.Nos.1 & 2 of 2013

S.R.K.Govindharaj

.... Petitioner

Versus

Nagarajan

... Respondent

Criminal Original Petition filed under section 482 of Criminal Procedure Code to call for the records in C.C.No.233 of 2009 pending trial on the file of Judicial Magistrate, Ariyalur and quash the same.

For Petitioner : M/s.M.N.Balakrishnan

For Respondent : Mr.P.Tamilavel

ORDER

This petition is filed seeking to call for the records in C.C.No.233 of 2009 pending trial on the file of Judicial Magistrate, Ariyalur and quash the same

सत्यमेव जयते

2. The petitioner who is an accused in C.C.No.233 of 2009 filed by the respondent/complainant for offence under Section 406, 418, 420, 506(i) of IPC. The contention of the petitioner is that earlier the respondent/complainant had filed a case in C.C.No.102 of 2006 before the Judicial Magistrate Court, Ariyalur which came to be dismissed under Section 256 of Cr.PC. On 24.07.2009. The same complaint had been taken on file by the lower court on 11.09.2009. From the adjudication on 11.09.2009 it is seen that C.C.No.102 of 2006 has been taken on file on 03.04.2006 and the same has been recorded.

3. The learned counsel for the respondent submitted that the lower Court had condoned the dismissal of the earlier petition and thereafter only C.C.No.233 of 2009 had been taken on file. Hence there is no irregularity and the complaint is maintainable.

4. Considering the above submission and on perusal of the records it is seen that C.C.No.102 of 2006 has been dismissed by the lower Court on 24.07.2009 and this judicial order has not been recalled or set aside. In view of the same, complaint for the same facts could not be taken on file. Hence the order of the lower court in C.C.No.233 of 2009 on the file of Judicial Magistrate Court, Ariyalur dated 11.09.2009 is illegal, hence the order of the lower Court taking cognizance of C.C.No.233 of 2009 is hereby quashed. Accordingly, the criminal original petition is allowed. Consequently connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

dpq
To

The Judicial Magistrate,
Ariyalur

+1 CC to Mr.P.Tamilavel, Advocate sr 56146.

Cr1.O.P.No.22451 of 2013
and M.P.Nos.1 & 2 of 2013

VSNI1(CO)
SP(05/08/2019)

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