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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.10121/2015 & MP.Nos.1&2/2015 & Crl.MP.No.11697/2017

J.Srinivasan

... Petitioner/Accused

Versus

1.Mr.Dhanapal ...Respondent No.1/Defacto Complainant

2.The Inspector of Police

Ariyalur Police Station

Ariyalur, Ariyalur District. ... Respondent No.2

Prayer:- Criminal Original Petition filed u/s.482 of Cr.P.C., to call for the records on the file of the Court of the learned Judicial Magistrate, Ariyalur, Ariyalur District in connection with CC.No.253/2014 and quash the impugned complaint dated 08.02.2011 for the alleged offences under sections 294[b], 417, 427 and 506[iii] of the Indian Penal Code and all further proceedings.

For Petitioner : Ms.Mary Sowmi Rexi  
for M/s.Isaac Mohanlal

For R1 : No appearance

For R2 : Mr.E.Raj Thilak  
Additional Public Prosecutor

ORDER

- (1) The petition has been filed seeking interference with further continuation of CC.No..253/2014 pending on the file of the learned Judicial Magistrate, at Ariyalur.
- (2) The grievance of the petitioner/accused is that the 1st respondent/defacto complainant had actually given a complaint before the 2nd respondent police, who after enquiring the same, had closed it as a 'Mistake of Fact'. Not letting the issue to rest at that, the 1st



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respondent/defacto complainant had then approached the learned Judicial Magistrate at Ariyalur, and had filed a private complaint under Section 200 of Cr.P.C. The learned Magistrate went through the required procedure and thereafter, had thought, by an order dated 01.11.2014, it fit to take cognizance of the complaint and had issued summons to the petitioner herein. This has caused grievance to the petitioner who has now come to this court, filing the present petition, taking advantage of Section 482 of Cr.P.C., seeking interference with further proceedings.

- (3) A perusal of the complaint given by the 1st respondent/defacto complainant reveals that both the petitioner and the 1st respondent/defacto complainant are running a Cable TV Network in the very same area. The petitioner herein appears to have cut the connection with which the 1st respondent/defacto complainant was running the Cable TV and there was a wordy quarrel between the two of them, leading to lodging of a police complaint, which the 2nd respondent police had closed as 'Mistake of Fact'.
- (4) Let the parties go before the Trial Court and agitate the issue during the course of trial. The petitioner herein can take advantage of the fact that the 2nd respondent/Inspector of Police, Ariyalur Police Station at Ariyalur, had actually closed the complaint as 'Mistake of Fact' and put that particular issue to the defacto complainant during cross-examination. The petitioner herein, may also during the course of cross-examination, put questions to the 1st respondent/defacto complainant regarding the actual loss suffered by the 1st respondent/defacto complainant since there is no mention about that particular fact in the complaint. The words said to have been uttered, may also be tested during the course of cross-examination.
- (5) Having so many avenues to test the case of the defacto complainant, it would only be appropriate that the parties face trial. In fact, over the past six years, had the present petition not been kept pending by this Court, the matter would have ended either in acquittal or in conviction before the learned Judicial Magistrate well more three years before.



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(6) In the result, the Criminal Original Petition stands dismissed with a direction to the parties to go back to the Trial Court and participate in the trial proceedings. A direction is given to the learned Judicial Magistrate at Ariyalur, to move forward with CC.No.253/2015 and dispose of the same in the manner known to law, preferably on or before 31.01.2022. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP  
To.

1.The Judicial Magistrate,  
Ariyalur.

2.The Inspector of Police  
Ariyalur Police Station  
Ariyalur, Ariyalur District.

3.The Public Prosecutor  
High Court, Madras.

+1cc to M/s.Isacc Chamber, P.Godson Swaminath, Advocate Sr.49351

Cr1.OP.No.10121/2015

nmi[co]  
srg 12/10/2021