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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.10.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.16381/2016 & Cr1.MP.No.7957/2016

[Video Conferencing]

Manikandan

... Petitioner

Versus

Bharathimirpuri

... Respondent

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in CC.No.2333/2016 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai filed by the complainant and quash the same.

For Petitioner : Mr.R.Rajasekaran

For Respondent : No appearance

ORDER

- (1) The matter has been coming up before me on 15.09.2021, 29.09.2021, 04.10.2021 and again on 06.10.2021 and it is now once again posted today.
- (2) On all the earlier occasions, there has been no appearance on behalf of the respondent. The name and address of the respondent had been printed in the Cause List.
- (3) Heard Mr.R.Rajasekaran, learned counsel for the petitioner.
- (4) On 09.04.2013, an incident had occurred and thereby, the petitioner had lodged a complaint against the respondent herein before the G-1, Vepery Police Station, Chennai. After investigation, a Final Report had been filed which had been taken cognizance as C.C.No.7362/2013 by the learned II Metropolitan Magistrate, Egmore, Chennai.
- (5) The offences involved in that particular complaint were under Sections 341 and 323 IPC. The respondent herein was the accused. The petitioner herein gave evidence as PW1.



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- (6) After analysing the evidence adduced, the learned II Metropolitan Magistrate, vide judgment had convicted the respondent/accused herein. After that, on 07.10.2015, after about 2 ½ years, the respondent had given a complaint as against the petitioner herein which had been taken cognizance as C.C.No.2333/2016, which Calender Case is now sought to be quashed by the petitioner herein.
- (7) It pointed out by Mr.R.Rajasekaran, learned Counsel for the petitioner that the complaint had been preferred with respect to the very same incident which took place on 09.04.2013 and it had been lodged with a delay of about 2 ½ years and after the petitioner herein had tendered evidence as PW1. It is therefore stated that complaint itself is an afterthought and mala fide is writ large on that complaint.
- (8) The respondent had chosen not to appear before this Court. More than sufficient leverage has been given to the respondent to appear, but still he had taken a conscious decision to not to appear before this Court.
- (9) Even on facts, it is seen that the respondent having been convicted in the earlier case based on the complaint given by the petitioner herein had turned round and had given a complaint with respect to the same incident.
- (10) The continuation of the Calendar Case would only be an exercise in futility and with the passage of time, the chances of conviction will also be extremely remote. The petitioner should not be put through the ordeal of facing trial after about eight years of the incident.
- (11) In view of all these reasons, I would interfere with the further proceedings in C.C.No..2333/2016 now pending on the file of the II Metropolitan Magistrate, Egmore Chennai and quash the same.
- (12) In the result, the Criminal Original Petition stands allowed and the further proceedings in CC.No.2333/2016 stands quashed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-CCC)

// True Copy //

Sub Assistant Registrar

CDA



To

1.The II Metropolitan Magistrate
Egmore, Chennai.

2.The Public Prosecutor
High Court, Chennai.

+1CC to M/s.R.Rajasekaran, Advocate, SR.No. 53841

Cr1.OP.No.16381/2016

RGN(CO)
B.VC (29/10/2021)