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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.2577 OF 2017

AND

CRL.M.P.NO.1829 OF 2017

Sudheer Kuttan

... Petitioner/Accused-2

.Vs.

1. State Rep. By
The Inspector of Police,
R-5, Choolaimedu Police Station Crime,
Chennai.
Crime No.1522 of 2013

2. M.Irene Manohar

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.5056 of 2015 pending before the Learned XVII Metropolitan Magistrate, Saidapet and quash the same against the petitioner.

For Petitioner .. Mr.M.Jaikumar

For R1 .. Mr.E.Raj Thilak
Government Advocate
(Criminal Advocate)

For R2 .. Mr.P.K.Ganesh

ORDER

I had given some leverage and heard arguments advanced by Mr.M.Jaikumar, learned counsel for the petitioner and also Mr.P.K.Ganesh, learned counsel for the De-facto complainant / R1 and also Mr.E.Raj Thilak, learned Government Advocate (Criminal Side) for the 2nd respondent/the Inspector of Police Station, R-5 Choolaimedu Police Station.



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2. Pursuant to investigation in the First Information Report in Crime No.1522 of 2013, final report had been filed and had been originally taken cognizance by the learned XVII Metropolitan Magistrate, Saidapet, in C.C.No.5056 of 2015 and later the same was transferred to XXIII Metropolitan Magistrate, Saidapet.

3. There were three accused. The present petitioner is the 2nd accused. He had not appeared before the Trial Court and therefore, warrant had been issued owing to long absence. I am informed that the case against the accused had been split up and trial had proceeded against the 1st and 3rd accused. It is informed by Mr.E.Raj Thilak, learned Government Advocate (Criminal Side) that as many as twelve witnesses had been examined and an application had been filed to recall some of the witness for cross-examination on behalf of A1 and A3. In the midst of such progress in the trial it would not be appropriate on my part to interfere with the proceedings even though the case against A2 had been split up. It would not be proper to examine the contentions made and merits of either parties, since that privilege is the domain of the learned Magistrate, namely, to give a finding after examining the nature of evidence adduced and on analysis of both oral and documentary evidence produced.

4. Mr.M.J.Jaikumar, learned counsel after advancing arguments stated that permission may be granted to withdraw the petition and that liberty may be given to participate in the trial proceedings. That liberty is always there. Any accused would be given every opportunity to participate in the trial proceedings.

5. With the above observations, this Criminal Original Petition is dismissed as withdrawn without examining any of the grounds raised. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

smv

To

1. The Inspector of Police,
R-5, Choolaimedu Police Station Crime,
Chennai.



2. The Public Prosecutor,
High Court of Madras.

3. The XVII Metropolitan Magistrate,
Saidapet, Chennai.

4. -do- Thro The Chief Metropolitan Magistrate,
Chennai.

+1cc to Mr.M.Jaikumar, Advocate, S.R.No.45380

+1cc to Mr.P.K.Ganesh, Advocate, S.R.No.45092

CRL.O.P.NO.2577 OF 2017

KV(CO)
PBS/24/09/2021