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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 26825 of 2017

and

Crl.M.P.Nos.15423 and 15424 of 2017

Vijayaseelan

. . . Petitioner

Versus

The State by
The Inspector of Police,
K4-Annanagar Police Station,
Chennai.

. . . Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.8919 of 2014, pending on the file of the V Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : Mr.Rajnish Pathiyil

For Respondent : Mr.R.Kishore Kumar
Government Advocate Crl.Side

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.8919 of 2014, pending on the file of the V Metropolitan Magistrate, Egmore, Chennai filed for the offences under Sections 294(b), 506(i) and 507 IPC.

2. The case of the prosecution is that the accused has abused and threatened the de-facto complainant over phone on 07.05.2014. The crux of the charge is that when the de-facto complainant received an unknown telephone call, the accused called once again and asked the de-facto complainant as to why he has called him, which was denied by the de-facto complainant. However, the accused, continuously abused the de-facto complainant over phone about six times in a telephonic conversation and thereby committed an offence under Sections 294(b), 506(i) and 507 IPC.



3. The learned counsel appearing for the petitioner submitted that the entire conversation is happened due to some mistake. The de-facto complainant, in fact, has made an endorsement to the effect that he is not proceeding with the complaint and the complaint may be dropped, as the de-facto complainant is none other than the retired Judge of this court and he has in fact forgiven the act of the accused, who has tendered his unconditional apology. Therefore on sympathetic ground also the de-facto complainant himself has forgiven him and not willing to prosecute the case, the final report has to be quashed.

4. The learned Government Advocate (Criminal Side) appearing for the State submitted that the de-facto complainant has also made an endorsement before the police that he is not willing to prosecute the complaint any more. Mr.Rajnish Pathiyil, the learned counsel appearing for the petitioner also submitted that he has personally spoke to the de-facto complainant today also and the de-facto complainant informed him that he is no longer interested in prosecuting the matter and the matter may be quashed. Normally, this Court will not act merely on the submissions of the counsel, however, the counsel who appear before this Court is a regular practitioner and appears in many matters. Therefore, such statement cannot be ignored altogether. The fact that the de-facto complainant has made an endorsement not to prosecute the complaint, is also available on record which has not been disputed by the prosecution. In such view of the matter, having regard to the unconditional apology tendered by the petitioner and accepted by the de-facto complainant, over the conversation which appears to have created annoyance, even, therefore the continuation of the prosecution will not serve any purpose as the de-facto complainant himself condoned the act of the petitioner. In such view of the matter, the final report filed against the petitioner in C.C.No.8919 of 2014, pending on the file of the V Metropolitan Magistrate, Egmore, Chennai, is quashed.

5. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

psa/asr

To

1.The V Metropolitan Magistrate,
<https://hcservices.ecourts.gov.in/hcservices/>
Egmore, Chennai.



2.The Inspector of Police,
K4-Annanagar Police Station,
Chennai.

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3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.Rajnish Pathiyil, Advocate Sr.NO. 65210

Cr1. O.P. No. 26825 of 2017

NRL (CO)

A.SK(21.12.2021)