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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.2463 of 2019

and

Crl.M.P.No.1615 of 2019

Arul Pichai Narayanan

... Petitioner/Accused 3

Vs.

1.State Rep.by

Inspector of Police

Team-4, Central Crime Branch

Chennai.

Crime No.375 of 2008.

2.G.Chandrasekaran

... Respondents/Complainant

PRAYER: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.3740 of 2017 on the file of the CCB Court, Egmore, Chennai and quash the same.

For Petitioner : No Appearance

For Respondents: Mr.R.Vinothraja for R1

Government Advocate (Crl.Side)

ORDER

This Petition had been filed to call for the records in C.C.No.3740 of 2017 on the file of the CCB Court, Egmore, Chennai and quash the same.

2. When the case came up for hearing on 06.04.2022, the learned Counsel for the Petitioner submitted that notice was ordered at that time of admission, but notice to the second Respondent/Defacto complainant returned with the endorsement as "unserved." The affidavit of service is also filed as earlier as on 15.03.2022. Subsequently, notice had not been taken.



Therefore, the learned Counsel for the Petitioner sought time to take notice on the second Respondent/Defacto complainant. In the meantime, this Court has directed the Registry to call for the remarks from the file of the CCB Court, Egmore, Chennai with regard to the stage of the case in C.C.No.3740 of 2017. The interim stay was not extended and the case was adjourned to 20.04.2022.

3. Today, when the case came up for hearing, there was no representation for the learned Counsel for the Petitioner and in the cause-list, there are four Counsels for the Petitioner but none of them appeared before this Court. The remarks of the learned Metropolitan Magistrate for Exclusive of trial CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, dated 18.04.2022 was received. As per the remarks of the learned Metropolitan Magistrate, there are three Accused in this case, viz., A1-Arul Nayagam, S/o.Muthukumarasamy, A2-Rajam Muthukumarasamy, W/o.Muthukumarasamy and A3-Dr.Arulpitchai Narayanan, S/o.Muthukumarasamy. The third Accused had filed Crl.O.P.No.2463 of 2019. As per the remarks of the learned Metropolitan Magistrate, the Accused had been evading to receive summons. Subsequently, after stay was granted by this Court in Crl.O.P.No.2463 of 2019 and Crl.M.P.No.1616 of 2019, the Petitioner/third Accused, filed a petition stating that the High Court has granted stay and also granted exemption from the personal appearance of the third Accused. At that time, Non-Bailable Warrant was pending, subsequently it was recalled. The case was repeatedly adjourned and finally the case was posted to 05.05.2022. Now, this petition is filed under Section 482 of Cr.P.C., seeking to quash the charge sheet filed C.C.No.3740 of 2017 by the Inspector of Police before the Special Court for CCB Cases.

4. At the stage of admission, after admitting the Criminal Original Petition, interim stay was granted. The Petitioner herein enjoying the interim stay, who had been arrayed as third Accused, along with his relatives viz., mother and brother, who are also arrayed as co-Accused, had not appeared before the learned Metropolitan Magistrate for Exclusive of trial CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.

5. It is seen that the valuable right of the Accused guaranteed by the Constitution of India is misused by them. In contrast to the guidelines issued by the Hon'ble Supreme Court in the reported decision in State of Haryana -vs- Bhajanlal [1992 SCC (Cri.) 426, this is a glaring example of the misuse of the provisions of Section 482 of Cr.P.C. by the Accused



regarding the exercise of extraordinary power of the High Court in quashing the Charge Sheets and FIRs leniently.

6. After obtaining interim order from this Court, the third Accused, who is none other than the brother of the first Accused and son of the second Accused, before the Court of the learned Metropolitan Magistrate for Exclusive of trial CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, was able to delay the trial using the dilatory tactics. It is in violation of the principle laid down by the Hon'ble Supreme Court in the judgment of State of Haryana and Ors. Vs. Ch.Bhajan Lal and Ors, reported in 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426. In the light of the remarks offered by the learned Metropolitan Magistrate, the conduct of the Petitioner, who had been arrayed as Accused, cannot be condoned.

7. Therefore, this petition is dismissed with the directions to the learned Metropolitan Magistrate to execute the warrant pending against the Accused. If the Accused is produced on warrant, they shall be detained in Prison, till the disposal of the case. The learned Metropolitan Magistrate is directed to proceed with the trial and dispose of the case within a reasonable period of three months from the date of the execution of the warrants pending against the Accused.

8. The Commissioner of Police, Chennai City, is directed to form a separate unit regarding the warrants in pending cases arising out of various cases within his jurisdiction and execute the warrants. So that the pending criminal trial will not be affected. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

dna

To

1.The CCB Court, Egmore, Chennai.

2.The Metropolitan Magistrate for Exclusive of trial CCB Cases
(Relating to Cheating Cases in Chennai)
and CBCID Metro Cases, Egmore, Chennai.



3.The Inspector of Police
Team-4, Central Crime Branch
Chennai.
Crime No.375 of 2008.

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4.The Public Prosecutor
High Court, Madras.

CrI.O.P.No.2463 of 2019
and
CrI.M.P.No.1615 of 2019

PVS (CO)
GMY (27/05/2022)