



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.31460 OF 2019

AND

CRL.M.P.NOS.17205 & 17206 OF 2019

A.Bharatha Kumaran ... Petitioner/Sole Accused

Vs.

1. State Represented by  
The Inspector of Police,  
J-2, Adyar Police Station,  
Chennai - 600 020. ...1<sup>st</sup> Respondent/Complainant

2.Mr.D.Kalyanasundaram ...2<sup>nd</sup> Respondent/Defacto-Complainant

PRAYER:

Criminal Original Petition has been filed under Section 482 of Cr.P.C, prayed to call for the records relating to C.C.No.2910 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.Tolkkappiyan for R.Bharath Kumar  
For Respondents : Mr.S.Vinoth Kumar  
Government Advocate (Crl. Side) for R1  
Mr. K.Selvakumar for R2

ORDER

Criminal Original Petition has been filed to quash the case in C.C.No.2910 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

2. Still the learned Counsel for the Petitioner is not ready and the learned Counsel for the second Respondent/defacto Complainant vehemently objects an adjournment.



3. As per his submission, when the FIR was pending, the Petitioner herein filed another CrI.O.P.No.23283 of 2017 to quash the FIR. At that time interim stay was not granted and this Criminal Original Petition was pending. During the pendency of the earlier Criminal Original Petition to quash the FIR, the Investigation Officer had proceeded with the investigation as there was no stay granted by this Court. Investigation Officer has completed the investigation and final report laid before the Court concerned.

4. The learned Government Advocate (Crl. Side) also concedes the same since the charge sheet filed, the final report has been taken cognizance by the learned Metropolitan Magistrate-IX, Saidapet, Chennai and numbered as C.C.No.2910 of 2019. This Petition had been filed on receipt of summons from the Court concerned to quash the charge sheet.

4.1. The learned Government Advocate (Crl. Side) vehemently objects to the attitude of the Petitioner herein who had been granted repeatedly adjournments. Except on 27.04.2022, the list did not reach. Today, there is sufficient time, learned Counsel for the Petitioner who appear and argue after the lunch hours by 2.15 p.m., Still the learned Counsel not present and the learned Counsel representing Counsel on record seeks Pass over by 2.15 p.m., and there is no Passed over as the list has been exhausted.

4.2. Further the learned Government Advocate (Crl. Side) submits that from the investigation, there are sufficient materials available before the Court concerned, trial Court has to proceed with the trial. At this stage this Court cannot exercise its discretion under Section 482 of Cr.P.C., to quash the criminal case pending trial before the trial Court by exercising extraordinary powers under Section 482 of Cr.P.C.,

4.3. Further learned Government Advocate (Crl. Side) submits that based on the ruling of the Hon'ble Supreme Court reported in 1992 Supp (1) SCC 335:1992 SCC (cri) 426 in the case of State of Haryana Vs. Bhajanlal shall be used sparingly when there was lack of materials in the charge sheet. Here, there are materials incriminating the Petitioner as Accused before the Court. Therefore, the learned Government Advocate (Crl. Side) seeks to dismiss this Petition with direction to the learned Judicial Magistrate to proceed with the trial.

5. The conduct of the Petitioner in seeking repeated adjournments in all times except 27.04.2022 cannot at all be appreciated. Today, the list is short and the time is around



3.00 p.m., the Petitioner was not ready and seeks passed over or adjournments that cannot be granted, because, this is the last working day, the Court has to wind up by 3.15 p.m., as per standing instruction of the Hon'ble Chief Justice. Based on the above, materials available before this Court is perused and in the light of the vehement objection by the learned Counsel for the second Respondent/defacto Complainant and the learned Government Advocate (Crl. Side) for the Prosecution, this Criminal Original Petition is dismissed with direction to the learned Metropolitan Magistrate to proceed with the trial within a period of three months from the date of receipt of a copy of this order or from the date of uploading this order on the website of this Court. The Petitioner is directed to appear before the Court concerned and cooperate with the trial. If the Accused does not appear, the learned Metropolitan Magistrate is directed to issue Warrant. If the Accused is produced on Non Bailable Warrant, he shall be confined to the Prison till the disposal of the case. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To.

1. The Inspector of Police,  
J-2, Adyar Police Station,  
Chennai - 600 020.
2. The IX Metropolitan Magistrate,  
Saidapet, Chennai.
3. The Public Prosecutor,  
High Court, Chennai.

+1cc to Mr.R. Bharath Kumar, Advocate, S.R.No.30831  
+1cc to Mr.K.S. Kumar, Advocate, S.R.No.30281

Crl.O.P.No.31460 of 2019

RSI (CO)  
AJ(07/06/2022)