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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.9719 of 2022 and
Crl.M.P.Nos.5712 and 5714 of 2022

A.Ganapathy ... Petitioner / Accused

Vs.

1. The Inspector of Police,
   Villupuram Taluk Police Station,
   Villupuram ... 1st Respondent / Complainant

2. Syed Hameed Gaffar ... 2nd Respondent / Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the Judicial Magistrate No.1, Villupram in C.C.No.159 of 2018 and to quash the same.

For Petitioner : Mr.N.Senthil Kumar
for Mr.P.Kannankumar

For Respondents : E.Raj Thilak
Addl. Public Prosecutor for R1
Mr.S.Natarajan for R2

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O R D E R

The petitioner, who is an accused on a private complaint filed by the second respondent pending trial in C.C.No.159 of 2018 for the offence under Sections 294(b) and 323 of IPC, filed this quash petition.

2. The case of the petitioner is that the petitioner was working as Depot Manager, Tamil Nadu State Transport Corporation, Villupuram and on 20.07.2014, the second respondent was entrusted with the duty to drive the bus from Villupuram to Chennai. At that time, it was found that the second respondent had not properly discharged his duty which was questioned by the petitioner and he also used some harsh words, for which a complaint was lodged by the second respondent to the first respondent Police and the same was registered as C.S.R.No.319 of 2014. On 28.07.2014, FIR was registered under Sections 294(b) and 323 of IPC in Crime No.438 of 2014 and later, it was closed as mistake of fact. The second respondent filed a protest petition before the jurisdictional Magistrate and the same was dismissed giving liberty to the second respondent to file a private complaint. Based on which, the second

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respondent filed the said private complaint, the same was taken on file and the trial is in progress. The petitioner has now been promoted and he is working as General Manager, Tamil Nadu State Transport Corporation, Coimbatore Division, Nilgiris, Uthagamandalam. It is further submitted that for the misconduct by the second respondent, he was served with memo of suspension, he was suspended for 55 days and thereafter suspension was revoked with cut in two increments which had not been challenged. Though a Writ Petition was initially filed, thereafter it was withdrawn.

3. Heard the learned counsel appearing for the petitioner.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that a case has been registered on the complaint of the second respondent and later it was closed as mistake of fact. A private complaint has been filed.

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5. The learned counsel appearing for the second respondent would submit that the contention of the petitioner is not acceptable and earlier, a case in Crime No.438 of 2014 has been registered and later, the same was closed as mistake of fact and RCS notice was served. Thereafter, by way of protest petition, the private complaint has been filed with regard to enquriy under Section 202 of Cr.P.C and it is not mandatory for the Magistrate to conduct enquiry and the same is discretion of the trial Court. He further submitted that procedure in Section 202 of Cr.P.C is fully discretionary and six witnesses have been examined. Thereafter, cognizance has been taken place and summons have also been issued.

6. On earlier occasion, both the learned counsel for the petitioner and the second respondent agreed for reconciliation. For appearance of the parties, the matter has been listed today.

7. Today, both the petitioner and the second respondent have arrived at a compromise and the second respondent is agreed to withdraw the case against the petitioner and the offence is compoundable.

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8. The petitioner / accused is present before this Court. He also expressed his remorse on the incident made on 20.07.2014. The second respondent also agreed to the same and the issue between the parties has been settled. Hence, this Court is inclined to quash the impugned proceedings.

9. Accordingly, C.C.No.159 of 2018 pending before the learned Judicial Magistrate No.1, Villupuram is quashed and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

1. The Inspector of Police,
   Villupuram Taluk Police Station,
   Villupuram.

2. The learned Judicial Magistrate No.1,
   Villupuram.

3. The Additional Public Prosecutor,
   Madras High Court.

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M.NIRMAL KUMAR, J.

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