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Crl.R.C.No.1000 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.RC.No.1000 of 2023 &

Crl.M.P.Nos.8052 & 8053 of 2023

Udhaya Kumar
Petitioner

...

Vs.

Ramesh
Respondent

...

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, 1973 to set aside the Order passed in Crl.M.P.No.1464 of 2022 on the file of the learned Judicial Magistrate No.I, Ponneri dated 08.08.2022.

For Petitioner

: Mr.W.Camyles Gandhi



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ORDER

This Criminal Revision Petition has been filed challenging the Order of the learned Judicial Magistrate No.I, Ponneri taking cognizance of the complaint given by the respondent by an Order dated 08.08.2022 made in Crl.M.P.No.1464 of 2022

2. The learned counsel for the petitioner submitted that the petitioner is an accused in STC No.225 of 2022 on the file of the Judicial Magistrate No.I, Ponneri. Originally, the complaint given by the complainant was closed by the respondent police is a mistake of facts and closure report has been sent to the Court. Thereafter, the complainant has filed a protest petition in Crl.M.P.No.1464 of 2022 and that was accepted and a case has been taken cognizance in STC.No.225 of 2022 for the offences under sections 294[b] and 323 of IPC. Since the case has already been closed and counter case filed by the petitioner has been committed in S.C.No.123 of 2020 on the file of the Sub Court, Ponneri, taking cognizance of the



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complaint under the protest petition is unsustainable and hence, seeks to set aside the same.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On a perusal of the impugned Order and other materials available on record, it is noticed that the petitioner had given a complaint against the respondent and other persons on 22.04.2014 and the same was registered in Crime No.149 of 2018. Further, it is noticed that the complainant also gave a counter complaint against this petitioner which was registered in Crime No.150 of 2018 for the offences under sections 294[b], 323 326 of IPC. The respondent police filed final report on the complaint of the petitioner and the same was committed to the Sessions Court for trial. The counter complaint given against the petitioner has been closed as mistake of facts and as against which, the complainant filed a protest petition in Crl.M.P.No.1464 of 2022. The learned Judge not accepting the final report



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filed by the police, had taken cognizance of the complaint given by the respondent in STC.No.225 of 2022 for the offences under section 294 [b] and 323 of IPC. Under these circumstances, taking cognizance by the Court cannot be challenged, unless the jurisdiction of the court is ousted. Therefore, the revision is not maintainable and this Criminal Revision Petition is liable to be dismissed.

5. Accordingly, this Criminal Revision Case is dismissed with liberty to the petitioner to work out his remedy with regard to taking cognizance of the offences. Consequently, connected miscellaneous petitions are closed.

15.06.2023

Index: Yes/No

Internet: Yes/No

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To

The Judicial Magistrate No.I, Ponneri.

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V.SIVAGNANAM, J.,

VTC

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