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CrI.O.P.No.24228 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.24228 of 2024

C.Vimaleswaran.

... Petitioner/Accused – 2.

/versus/

1. The State Rep. by its,
Inspector of Police,
F3-Nungambakkam Police Station,
Chennai.
(Crime No.401 of 2018).

... 1st Respondent/Complainant

2. Mrs.G.Ezhilarasi.

... 2nd Respondent/defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Charge Sheet in C.C.No.4013 of 2020 pending on the file of the Court of the XIV Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.K.Gokulram

For R1 : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)

ORDER

The petitioner herein is arrayed as 2nd accused in C.C.No.4013 of 2020 on the file of XIV Metropolitan Magistrate, Egmore, Chennai arising out of F.I.R in Crime No.401 of 2018 on the file of F-3, Nungambakkam Police



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2. According to the petitioner, the Government has issued G.O.Ms.No.368/2021 dated 04.09.2021 to withdraw the batch of cases which are foisted by the earlier Government and the Crime No.401 of 2018 for the offences under Section 294(b) and 506(i) of I.P.C is one among the cases listed for withdrawal. While so, ignoring the Government Order passed by the Government, the respondent police has filed final report. Hence, the complaint has to be quashed.

3. The Learned Government Advocate (CrI.Side) for the 1st respondent submits that the petitioner herein earlier sought for quash of the complaint before filing the final report, but this Court on perusing the record found that there are sufficient materials to proceed against the petitioner and therefore, refused to quash the complaint. While so, the 2nd quash petition is not maintainable.

4. This Court finds that the earlier quash petition was before filing of final report whereas, the present quash petition is filed after filing the final report and in view of the Government Order passed by the Government to



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withdraw the complaint. *Dehors* of the merit of the case, if the Government has taken falsely the decision to withdraw the case in exercise of its power under Section 321 of Cr.P.C, it is for the Public Prosecutor and the Court to consider the Government Order passed for withdrawal and proceed in accordance with law.

5. It is suffice to direct the Learned Public Prosecutor to file application for withdrawal as per the G.O.Ms.No.368/2021, dated 04.09.2021 and the trial Court to consider the application for withdrawal as per merit and pass appropriate order. The above said exercise shall be done within a period of three months from today.

6. With this observation, this Criminal Original Petition is disposed of.

15.10.2024

Index : Yes/No
Neutral Citation : Yes/No
bsm

To:-

1. The XIV Metropolitan Magistrate, Egmore, Chennai.



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2. The Inspector of Police, F3-Nungambakkam Police Station, Chennai.
3. The Public Prosecutor, High Court, Madras.

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Dr.G.JAYACHANDRAN,J.

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