

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.2760 of 2015

Partha Mukherjee
(Crime No.299/2013)

... Petitioner

Vs.

The Inspector of Police,
Prohibition enforcement wing,
Villupuram.

... Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for entire records of the criminal proceedings in Crime No.299 of 2013 dated 23.06.2013 for the offence under section 4(1) of the Tamil Nadu Prohibition Act 1937, on the file of the respondent and to quash the same.

For Petitioner : Mr.R.Selvakumar

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

This petition is filed to quash the FIR registered against the petitioner in Crime No.299 of 2013 on the file of the respondent/police.

2. It is submitted by the learned counsel for the petitioner that FIR was registered on 23.06.2013 for having committed offence under Section 4 (1) (a) of the Tamilnadu Prohibition Act 1937, and the maximum punishment for offence committed under the said section is three months. Learned counsel further submitted that as on date, no charges have been made. Therefore, to give effect to the provision contemplated under Section 468 (2) of Cr.P.C, this petition is filed. Therefore, the learned counsel submitted that the FIR is liable to be quashed.

3. It is submitted by the learned Additional Public Prosecutor that final report was filed on 19.11.2013 but the same was not taken on file 29.11.2013 before by the Judicial Magistrate, Vanur and it was returned for compliance on 29.11.2013.

4. In this connection, it would be beneficial to refer to Section 468 (1) (2) (a) (b) which is extracted as hereunder:-

" 468. Bar to taking cognizance after lapse of the period of limitation:-

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2) after the expiry of the period of limitation.

The period of limitation shall be

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

5. As stated supra, the maximum punishment for offence committed under Section 4 (1) (a) of the Tamilnadu Prohibition Act 1937, is three months. Therefore, as per Section 468 (2) (b) as quoted above, the Court ought to have taken cognizance of the offence/case within a period of one year. Admittedly, as on date, the case was not taken on file by the learned Judicial Magistrate Court, Vannur. Hence, the FIR registered against the petitioner is barred by the limitation. Therefore, Criminal Original Petition is allowed, FIR is quashed.

Sd/-

Assistant Registrar(CO)

//True Copy//

adl
To

Sub Assistant Registrar

- 1.The Inspector of Police, Prohibition enforcement wing, Villupuram.
- 2.The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.10534

Cr1.O.P.No.2760 of 2015

PPA(CO)
CA(10/04/2015)