

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.1287 of 2016

and

Crl.M.P.No.527 of 2016

1.V.Beema Rao
S/o.Veeradoss

2.M.Rajendra Prasad
S/o.Munusamy ... Petitioner/Accused

Vs.

1.The State Rep by
The Station House Officer
Villianur Police Station
Puducherry ... Respondent/Complainant

2.The State Rep by
The Inspector of Police
The Railway Protection Force
Vandrapet
Puducherry ... Proposed 2nd Respondent

(R2 impleaded as per the order of this Court dated 12.02.2016 made in Crl.M.P.No.1516/2016 in Crl.O.P.No.1287/2016)

Prayer:

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Crime No.251 of 2012 on the file of the respondent and quash the same.

For Petitioner : Mr.I.Paul Noble Devakumar

For Respondent : Mr.M.R.Thangavel, A.P.P., (Pondy)

O R D E R

The petitioner has come up with the present Criminal Original Petition to quash the proceedings in Crime No.251 of 2012 pending on the file of the respondent.

2. The learned counsel appearing for the petitioners would submit that on 24.08.2012, some persons belonging to a political party conducted agitation against the Railway gate and hence, the respondent police registered a case against two named persons and 100 others in Crime No.251/2012 under Section 143, 341 r/w 149 IPC. The name of the first and the second petitioners have been implicated as A-57 and A-93 respectively. The learned counsel would further submit that the petitioners herein had not participated in the said agitation and merely because they belong to the A-1 political party, their names have been falsely implicated. Further, during the course of the investigation, alteration report has been filed on 18.10.2012, including Sections 174 (a) and (b) of the Railways Act, 1989 and the case was transferred to the file of the Railway police. On 31.12.2015, the Railway police took cognizance of the offences punishable under Sections 174(a) and 147 of the Railways Act, other than the offences punishable under IPC.

3. The learned counsel for the petitioner would further submit that the sentence for the offences punishable under Section 143 IPC is six months; Section 341 IPC is one month; Section 147 of Railways Act is six months and Section 174(a) of Railways Act is two years. In the instant case, though the case has been registered on 24.08.2012, so far the charge sheet has not been filed. Hence, as per Section 468 Cr.P.C, it is barred by time and thus, the learned counsel for the petitioner prayed for quashing the proceedings.

4. Resisting the same, the learned Additional Public Prosecutor (Pondicherry) would submit that the case has been registered on 24.08.2012 and the alteration report has been filed on 18.10.2012, altering the case to Sections 174(a) and (b) of the Railways Act. But, admittedly the file has been received by the police and the case in Crime No.1383/2015 has been registered by the Railway police under Sections 147 and 174 (a) of the Railways Act, only on 31.12.2015. So, the learned Additional Public Prosecutor would contend that the case is not hit by Section 468 Cr.P.C and he prayed for dismissal of the petition.

5. Considered the rival submissions made by both sides and perused the typed set of papers.

6. The petitioners herein who were arrayed as A-57 and A-93 belong to the A-1 political party. Admittedly, their names have not been mentioned in the FIR. The respondent police had registered a case on 24.08.2012 only against two named persons and 100 others in Crime No.251/2012 under Section 143, 341 r/w 149 IPC. Thereafter, an alteration report has been filed on 18.10.2012, including Sections 174 (a) and (b) of the Railways Act, 1989 and the case was transferred to the file of the

Railway police. On 31.12.2015, the Railway police took cognizance of the offences punishable under Sections 174(a) and 147 of the Railways Act, other than the offences punishable under IPC. Though the maximum punishment for the offence under Section 174(a) of the Railways Act is only two years, the file was received by the Railway Police only on 31.12.2015. So, the learned counsel for the petitioners would contend that the case is barred by time under Section 468 Cr.P.C.

7. At this juncture, it would be appropriate to incorporate Section 468 and 469 Cr.P.C

"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.

(2) 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;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."

"469. Commencement of the period of limitation:- (1) The period of limitation, in relation to an offender, shall commence -

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence committed, the first day on which the identity of the offender is known to the person aggrieved by the

offence or to the police officer making investigation into the offence, whichever is earlier

(2) In computing the said period, the day from which such period is to be computed shall be excluded."

8. So, as per the above provisions, the charge sheet has to be filed within a period of three years from the date of commission of the offence. In the instant case, the agitation was conducted by the A-1 political party on 24.08.2012 and hence, the date of commencement of the period of limitation is 24.08.2012. But according to the learned Additional Public Prosecutor, the FIR in Crime No.1383/2015 has been registered by the Railway police under Sections 147 and 174(a) of the Railways Act, only on 31.12.2015. So, as per Section 468(2)(c) of Cr.P.C, the period of limitation is three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. But the said contention made by the learned Additional Public Prosecutor does not merit acceptance.

9. In the instant case, since the charge sheet is yet to be filed for the offence held on 24.08.2012, the proviso to Section 468 Cr.P.C is squarely applicable. Hence, I am of the considered view that it is a fit case to quash the proceeding on the ground of limitation. Further, it is pertinent to note that the names of the petitioners who are arrayed as A57 and A93 have not been mentioned in the FIR. So, there is no iota of evidence to show that they had participated in the agitation.

10. In view of the above stated position, the proceedings in Crime No.251 of 2012 on the file of the first respondent, which was subsequently transferred to the file of the second respective and re-registered as Crime No.1383/2015 is liable to be quashed and consequently, the Criminal Original Petition is allowed. Connected miscellaneous petition is closed.

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s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Station House Officer
Villianur Police Station
Puducherry

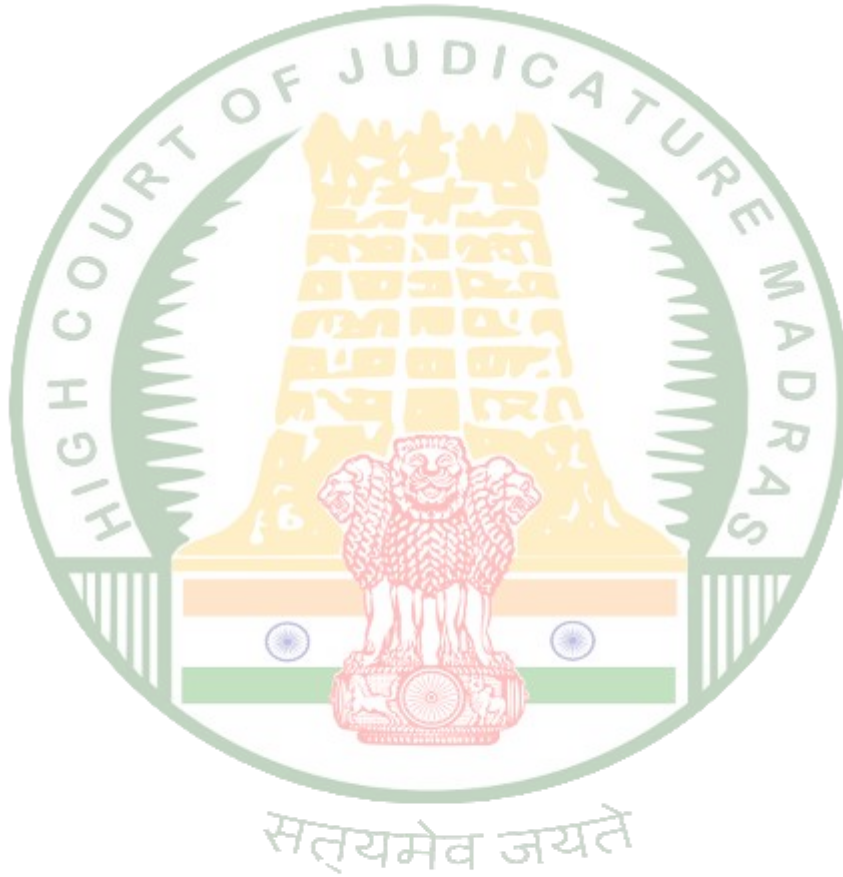
2.The Inspector of Police
The Railway Protection Force
Vandrapet
Puducherry

3.The Public Prosecutor
High Court, Chennai.

+ 1 cc to Mr.I.Paul Nobel Devakumar, Advocate SR 21293

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