

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. No.21457 of 2010

and Cr1.M.P.No.11852 of 2016 and M.P.No.1 of 2010

Rajendran

Petitioner

vs.

1.State rep by the Sub Inspector of Police
Tharamangalam Police Station
Salem District.

2.Kavitha

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C.
to call for the records and quash all the proceedings in
C.C.No.299 of 2009 on the file of the District Munsif cum
Judicial Magistrate, Omalur, Salem District.

For petitioner Mr.B.Vasudevan

For R1

Mr.C.Emalias

Additional Public Prosecutor

For R2

Mr.G.Saravanan

ORDER

This petition has been filed to call for the records and
quash all the proceedings in C.C.No.299 of 2009 on the file of
the District Munsif cum Judicial Magistrate, Omalur, Salem
District. closed.

2. Heard the learned counsel for the petitioner, learned
Additional Public Prosecutor appearing for the State and the
learned counsel for the de facto complainant.

3. On the complaint lodged by the second respondent, the
first respondent registered a case in Cr.No.158 of 2005 on
18.04.2005 for offences u/s 294(b) and 506(i) IPC and arrested
the accused on 20.04.2005. The accused was released on bail
thereafter on 28.04.2005. The first respondent completed the
investigation in Cr.No.158 of 2005 and filed a Final Report in

C.C.No.299 of 2009 before the District Munsif-cum-Judicial Magistrate, Omalur on 29.10.2009 and cognizance was taken on 31.12.2009. Challenging the prosecution, the petitioner is before this Court.

4. Learned counsel for the petitioner submitted that the Final Report is for the offence u/s 294(b) and 506(i) IPC and the maximum punishment for the offence u/s 506(i) IPC is two years and therefore, the prosecution is barred by limitation.

5. Mr.Saravanan, learned counsel for the second respondent fairly conceded the position.

6. It is the case of the de facto complainant/second respondent that the petitioner abused her and threatened her on the date of incident. Though the petition for condonation of delay u/s 473 Cr.P.C. can be filed, nevertheless, taking into consideration the nature of the allegations in the FIR and the Final Report, this Court applies the 'doctrine of triviality' and quashes the prosecution, which is admittedly time barred.

In the result, this petition is allowed and the proceedings in C.C.No.299 of 2009 on the file of the District Munsif-cum-Judicial Magistrate, Omalur is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gms

To

1.The District Munsif cum Judicial Magistrate,
Omalur, Salem District.

2.The Sub Inspector of Police
Tharamangalam Police Station
Salem District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B. Vasudevan, Advocate, S.R.No.65768

+1cc to Mr.G. Saravanan, Advocate, S.R.No.65686

ks (CO)
md(29/11/2016)

Cr1.O.P. No.21457 of 2010



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