



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Cr1.OP.[MD].No.2101 of 2011**and****M.P.Nos.1 and 2 of 2011**

1.Christopher @ Meiappan
2.Chandrasekaran
3.Chandrasekar
4.Jayamurugan
5.P.Ramar
6.Paramasivam : Petitioners

Vs.

1.The State rep by
The Special Sub-Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.
Crime No.524 of 2007.

2.Augustin Oliver Jacob : Respondents

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure to call for the entire records in S.T.C.No.67 of 2009, on the file of the learned Judicial Magistrate, Tiruchendur, Thoothukudi District and quash the same.

For Petitioners : Mr.R.Anand

For Respondent No.1 : Mr.Mrs.S.Prabha
Government Advocate

For Respondent No.2 : Mr.Arunachalam

O R D E R

This Criminal Original Petition has been filed seeking to quash the case in S.T.C.No.67 of 2009, on the file of the learned Judicial Magistrate, Tiruchendur, Thoothukudi.

2. The case of the prosecution, in brief, is that on 31.08.2007, at 05.30 PM, the petitioners were stated to have staged ~~dharna~~ ^{staged dharna} at the restricted area, which comes under the control of BSNL Office, Tiruchendur. Since the said act was



questioned, again, on 04.09.2007, at 05.30 PM, the petitioners were stated to have conducted meeting at the very same place. The second respondent herein reported the said incident to his superiors and therefore, the petitioners got annoyed, which resulted in quarrel between the petitioners and the second respondent. On the very same day, at 07.30 PM, the petitioners were stated to have waylaid the second respondent and abused him in filthy language, and were stated to have assaulted the second respondent indiscriminately with hands. In this regard, the second respondent lodged a complaint on 04.09.2007. Based on the same, a case in Crime No.525 of 2007 for the offences punishable under Sections 147, 341, 294(b) and 323 of the Indian Penal Code was registered against these petitioners. Subsequently, the petitioners were arrested on 07.09.2007, remanded to judicial custody and thereafter, they were released on bail. However, in respect of the occurrence, which took place in the year 2007, the charge sheet was laid only on 24.07.2009, viz., after the lapse of two years.

3. It is the submission of the learned counsel for the petitioners that the petitioners are facing trial for the offences punishable under Sections 147, 341, 294(b) and 323 of the Indian Penal Code. As per the First Schedule to the Code of Criminal Procedure, the offences under Sections 147, 341, 294(b) and 323 of the Indian Penal Code are triable only by the Magistrate concerned. The offence under Section 147 of the Indian Penal Code attracts imprisonment of either description for a term, which may extend to two years, or with fine, or with both. The offence under Section 341 of the Indian Penal Code attracts simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both. The offence under Section 294(b) of the Indian Penal Code attracts imprisonment of either description for a term which may extend to three months, or with fine, or with both. The offence under Section 323 of the Indian Penal Code attracts imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. Thus, all the offences, in the case, attract the summon case procedure and Section 167(5) of the Code of Criminal Procedure applies thereto.

4. As per Section 167(5) of the Code of Criminal Procedure, if in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice, the continuation of the investigation beyond the period of six months is necessary.



5. In the instant case, the petitioners were arrested on 07.09.2007, whereas the charge sheet was laid only on 24.07.2009, viz., after lapse of two years. In this regard, I may refer to the order of this Court in **Jegannathan and others, Vs. The State**, reported in **1983 CrL.LJ.1748**, wherein it has been held that the Magistrates should take note of summons cases, where charge sheets have not been filed within six months from the date of arrest of the accused and pass orders stopping the investigation therein by invoking Section 167(5) of the Code of Criminal Procedure. The said decision has been followed by this Court in **A.C.S.M.Subramanian Vs. State, Rep by the Inspector of Police, CrL.OP(MD).No.1708 of 2015, dated 05.02.2014**.

6. In the instant case, admittedly, the charge sheet was not filed within six months from the date on which the accused were arrested. Therefore, I am of the opinion that by invoking Section 167(5) of the Code of Criminal Procedure, the case in S.T.C.No.67 of 2009, on the file of the learned Judicial Magistrate, Tiruchendur, Thoothukudi District, is liable to be quashed.

7. In the result, the Criminal Original Petition is allowed and the case in S.T.C.No.67 of 2009, on the file of the learned Judicial Magistrate, Tiruchendur, Thoothukudi District, is quashed, insofar as the petitioners herein is concerned. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. THE SPECIAL SUB-INSPECTOR OF POLICE,
TIRUCHENDUR POLICE STATION,
THOOTHUKUDI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER MADE IN
CrL.OP. [MD].No.2101 of 2011
15.12.2016