



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.15118 of 2017 and
Crl.M.P(MD).No.10059 of 2017

Kuzhai Kathar : Petitioner

-Vs-

1. The State through
The Inspector of Police,
Panagudi Police Station,
Thirunelveli District. :Respondent/Complainant.

2.L. Manivasagam : Respondent/Defacto Complainant.

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in Crime No.257 of 2014 on the file of the first respondent Police and quash the same as against the petitioner.

For Petitioner :Mr.P. Subbiah
For Respondent No.1 :Mr.C. Mayilvagana Rajendiran
Additional Public Prosecutor

O R D E R

This petition is filed to call for the records pertaining to the case in Crime No.257 of 2014, on the file of the first respondent Police and quash the same as against the petitioner.

2. The petitioner is shown as third accused in the complaint and the complaint was registered for the offences under Sections 143, 188, 153(A), 504, 505(i)(b) of IPC. The specific allegations against the petitioner is that he lead a Protest Meeting contrary to the prohibitory order issued by the first respondent police in exercise of its power under Section 30(A) of Police Act. Section 30 (A) of Police Act, 1861 reads as follows:-

"30.A. Powers with regard to the assemblies and processions violating conditions of licence - (1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any Police Officer in charge of a station may stop any procession which violates the conditions of a licence granted under the last foregoing section, and may order it or any assembly,



which violates any such conditions, as aforesaid, to disperse.

(2) Any procession or assembly which neglects or refuses to obey any order given under the last proceeding Sub-section, shall be deemed to be an unlawful assembly."

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3. The contention of the petitioner is that the First Information Report cannot be continued in view of the limitation stipulated under Section 468 of Cr.P.C. It is further stated that there is no other allegation against the petitioner with regard to the defamatory or provoking statement that was made by one of the speakers on the date of the Protest Meeting. It was further contended that the criminal complaint is nothing but a false one and that the petitioner has been un-necessarily implicated, with an ulterior motive.

4. First of all, the contention that the complaint is liable to be quashed, as the charge-sheet is not filed within three years from the date of occurrence is unsustainable. Section 473 of Cr.P.C empowers the Court to take cognizance of an offence even after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary to frame the charges in the interest of justice. The other submission is purely factual.

5. This Court cannot entertain the factual plea that the petitioner has not committed any offence, as alleged in the complaint. The truth or otherwise of the allegations in the complaint cannot be decided in the present proceedings which is filed to quash the complaint.

6. Therefore, this Court does not find any reason to entertain this petition. Hence, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1.The Inspector of Police, Panaguid Police Station,
Thirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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