

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.No.10331 of 2015

Kajamoideen

..Petitioner

Versus

1.The Commissioner of Police,
Coimbatore City.

2.Inspector of Police,
B-14, Kuniamuthur Police Station (Crime),
Coimbatore City.

...Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to FIR No.356 of 2012 on the file of the 2nd respondent police and to quash the same.

For Petitioner : Mrs.Malini George
For Respondents : Mrs.Kritika Kamal.P
Government Advocate (Crl.Side)

O R D E R

The brief facts of the case is that the petitioner herein had purchased a Toyota Qualis bearing Registration No.TN-37-AH-1830 from one Nijamuddin by paying an advance amount of Rs.1,30,000/- out of total sale consideration of Rs.3,00,000/- and got possession of the vehicle. According to the petitioner, the seller of the Car had initially stated that the original Registration Certificate was in the custody of the financier and therefore, the same was not handed over to him.

2. Later, the said vehicle was found to be a stolen vehicle with duplicate Registration Certificate and therefore, the Car came to be seized by the respondent police and the petitioner was arrayed as 2nd accused in Crime No.356 of 2012 on the file of the second respondent herein. Challenging the said FIR dated 09.06.2012, this present Criminal Original Petition is filed.

3. The learned counsel for the petitioner submits that the petitioner is a bonafide purchaser and that he is not aware of the antecedents of the Car. It is his case that one Nijamuddin had represented that the vehicle was in hypothecation and that he would release the original Registration Certificate in a couple of days. Believing the same, the petitioner had paid the advance amount and taken custody of the above said vehicle. The learned counsel for the petitioner further submitted that the FIR was registered in the year 2012 and the charge sheet has not been filed till date and therefore, he seeks to have the

investigation quashed.

4. The learned Government Advocate, on the other hand, submitted that from the statements of LW1 and the confession of the 2nd accused, it is clearly made out that the vehicle is a stolen vehicle and that the petitioner herein had knowledge of the theft and inspite of that he had purchased the said vehicle. In view of these statements, it would not be appropriate to quash the investigation.

5. I have given a careful consideration of the rival submissions made by both the counsel.

6. On a perusal of the statements made by LW1 and the 2nd accused, it is seen that these statements were obtained by the respondent police wayback in 2012 itself. The petitioner has also been arrested and remanded. Though, there were some incriminating materials available with the second respondent police, there is no reasoning or justification given by the prosecution with regard to the non-filing of the charge sheet for the past more than 5 years.

7. Though, more than 5 ½ years have passed from the date of Registration of the FIR, there is absolutely no improvement in the investigation, inspite of the statements obtained from the witnesses as well as the confession of the 2nd accused wayback in 2012.

8. I am of the view that this inordinate delay in filing the charge sheet would have caused serious prejudice to the petitioner herein and the same will amount to the denial of speedy trial. The very fact that the respondent has not chosen to file the charge sheet in time shows the lethargic attitude on the part of the second respondent.

9. Though the learned Government Advocate pointed out that there were certain materials available to implead the petitioner herein. The petitioner is entitled to succeed on the ground of laches alone. The delay in filing the charge sheet being inordinate, it would not be appropriate to make the petitioner to undergo the further ordeal of facing a criminal trial. Even otherwise, I am unable to comprehend as to how the prosecution can justify this delay and make the Trial Court reach its logical conclusion.

10. In the result, the investigation in FIR No.356 of 2012 on the file of the second respondent stands quashed. The Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

klt/nl
To

1.The Commissioner of Police,
Coimbatore City.

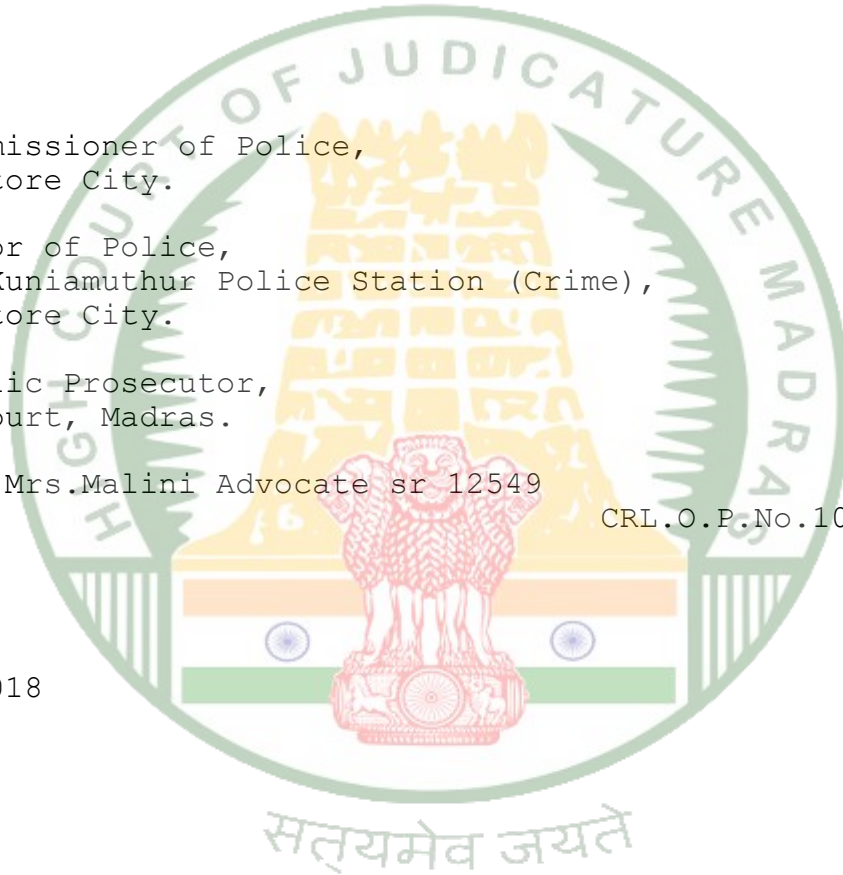
2.Inspector of Police,
B-14, Kuniyamuthur Police Station (Crime),
Coimbatore City.

3.The Public Prosecutor,
High Court, Madras.

+3 ccs to Mrs.Malini Advocate sr 12549

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