

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.01.2018

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.No.26496 of 2017 &

Crl.M.P.No.15255 of 2017

1.V.S.Neelakandan Jothidar

2.Thirupurasundari

..Petitioners

Vs

1.The State,

Represented by Inspector of Police,

F2 Police Station,

Chennai - 600 009.

2.Dr.M.S.Kathirvel

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records on the file of the first respondent in Crime No.2349 of 1998 dated 05.10.1998 and quash the same as illegal and against law.

For Petitioners: Mr.B.Sivaraman

For Respondents: Mrs.P.Kritika Kamal,
Government Advocate (Crl. side)

O R D E R

The complaint against the petitioners came to be registered on ***05.10.1998** in Crime No.2349 of 1998 for the offences under Section 419 & 420 read with 511, 448, 406(ii) read with 32 of I.P.C., which is under challenge in the present petition.

2.Since there was no progress in the investigation, the petitioners have sought for information on the details of final report filed and by letter dated 01.03.2016 issued by the first respondent herein, the investigation in Crime No.2349 of 1998 was claimed to be pending.

3.When the matter was listed on 05.12.2017, learned Additional Public Prosecutor sought time to get instructions and accordingly, the matter was adjourned.

4.Today when the matter was called, learned Government Advocate (Crl. side) submitted that though the office of Public Prosecutor had informed the first respondent to give instructions, it is reported that instructions had not been given with regard to the status of the complaint against the petitioners.

5. In view of the instruction given under the Right to Information Act, dated 01.03.2016, we can only presume that the final report has not been done in the year 2016.

6. I am unable to comprehend as to how the respondent police will be justified in not filing the final report even after 20 years from the date of registration of crime. The Judgment of Hon'ble Supreme Court in the case of the State of Haryana v. Bhajan Lal reported in 1992 SCC (Cri) 426 had formulated the categories of cases by way of illustration, wherein, the extraordinary power under the Section 482 Cr.P.C. can be exercised by the High Court to prevent abuse of the process of the Court. The relevant portion reads as follows:

" 102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulate and to give an exhaustive list of myraid kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7. The denial of speedy investigation would only indicate that there is no fair and impartial enquiry or investigation and the respondent police is not justified in making the petitioner awaited indefinitely for the final report /charge sheet.

8. In the result, I am of the view that the petitioner is entitled to succeed on the ground of laches on the part of the respondent police. Hence, the Criminal Original Petition stands allowed and the proceedings in Crime No.2349 of 1998 on the file of first respondent herein stands quashed. Consequently, connected miscellaneous petition is closed.

24/01/2018

Sd/--

Assistant Registrar(CS IX)

**Corrected as per the
order of this Court dated
05.03.2018 and made herein.**

Sd/-

ASSISTANT REGISTRAR(IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
F2 Police Station,
Chennai - 600 009.

To be Substituted to the
order already despatched on
01/03/2018

2.The Public Prosecutor,
High Court, Madras.

+2cc to M/s.B.Sivaraman, Advocate Sr.No.5790

सत्यमेव जयते

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MP(CO)
sm:16.2.2018
nr 14/03/2018

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