



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.14099 of 2014

WEB COPY

Arumugam

... Petitioner/Defacto Complainant

Vs.

State, through the Inspector of Police,
The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.

... Respondent/ Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order passed in Crime No.126 of 2008 dated 05.02.2013 and set aside the same and consequently direct the respondent to file the charge sheet before the learned Judicial Magistrate, Kamuthi in accordance with law.

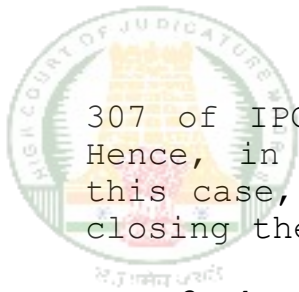
For Petitioner : Mr.S.Muniyandi

For Respondent : Mr.A.Robinson,
Government Advocate (crl.side)

ORDER

The defacto complainant in Crime No.126 of 2008 on the file of the Abiramam Police Station is the petitioner herein. The said case was registered for the offences under Sections 147, 148, 324, 341, 427, 307 IPC and Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. It is true that this case was registered as early as on 30.10.2008 and for about six long years, no final report was filed. The Judicial Magistrate, Kamuthi after noting that the case is pending for a long time at the FIR stage without filing of any charge sheet, closed the case as such. This is under challenge in this criminal original petition.

2.As rightly pointed out by the learned counsel for the petitioner, since the offence under Section 307 IPC is involved, which is an offence punishable upto ten years rigorous imprisonment, the court below could not have closed the case for not filing the charge sheet. Section 468 of Cr.PC contains the bar to taking cognizance after lapse of period of limitation. But then, this provision will not apply in respect of those offences for which the term of imprisonment will exceed three years. Obviously, Section



307 of IPC attracts the term of imprisonment beyond three years. Hence, in view of the non application of Section 468 of Cr.PC to this case, the court below could not have passed the impugned order closing the case for not filing the charge sheet.

3. Therefore, the order impugned in this petition is set aside. The respondent is directed to file the final report before the jurisdictional court within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate, Kamuthi.

2. The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.

+1CC TO Mr.S.Muniyandi, Advocate, IN SR No. 85212.

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