



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

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Crl.O.P. (MD) .No.4369 of 2017
and
Crl.M.P. (MD) .No.3119 of 2017

R.Balan

...Petitioner /Sole Accused

Vs.

1.The State represenated by
The Inspector of Police,
Mudukulathur Police Station,
Ramanathapuram District.
(In Crime No.113 of 2009)

...Respondent / Complainant

2.The Passport Officer,
Madurai Passport Office,
Race Course Road,
Madurai.

...Respondent / *De-facto* Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the FIR in Crime No.113 of 2009 on the file of the first respondent / complainant and quash the same against the petitioner / accused.

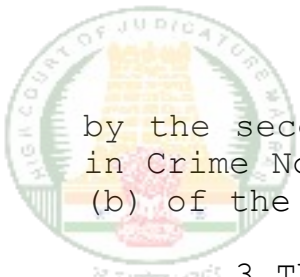
For Petitioners
For Respondents

:Mr.R.Venkateswaran
:Mr.S.Bharathi
Government Advocate

ORDER

This Criminal Original Petition has been filed seeking to quash the First Information Report registered in Crime No.113 of 2009.

2.The petitioner was the only person, who was shown as an accused in Crime No.113 of 2009. Subsequently, on the confession made by the petitioner, one another person viz., Dharmaraj was also made as an accused. It is the case of the prosecution that the petitioner made an application seeking for Passport before the Passport Officer, Madurai. Along with the application, the Birth Certificate was also annexed and this Birth Certificate was found to be a fabricated document. Therefore, based on the complaint given



by the second respondent, the respondent Police have registered FIR in Crime No.113 of 2009, for an alleged offence under Section 12 (1) (b) of the Passport Act, 1967.

3. The learned counsel appearing for the petitioner would submit that the petitioner was 19 years old at the time of the incident. The learned counsel would further submit that the petitioner had merely handed over the signed forms given by the above said Dharmaraj and all the other documents were prepared by the said Dharmaraj and given along with the document. This petitioner was not even aware as to the documents that were given along with the application. In the light of the confession made by this petitioner, the respondent Police added the said Dharmaraj as an accused person. Immediately thereafter, the said Dharmaraj committed suicide and the proceedings against him stood abated. The learned counsel appearing for the petitioner would further submit that even though, the First Information Report was registered in the year 2009, no final report was filed till the year 2017. Therefore, even if a final report is filed in this case, the Court below cannot take cognizance of the same, since the maximum punishment provided for an offence under Section 12 (1) (b) of the Passport Act, 1967, is only for a period which extends to two years. The final report ought to have been filed within a period of three years and cognizance should be taken within a period of three years. By lapse of time, the very First Information Report itself has become unsustainable. Therefore, the learned counsel would further submit that the First Information Report is liable to be quashed.

4. The learned Government Advocate would submit that the respondent Police have investigated the case and filed a final report on 04.06.2018. The learned Government Advocate would further submit that the specific allegations against this petitioner is that he is a party in preparing the forged document.

5. This Court carefully considered the submissions made on either side. It is seen from the records that the First Information Report was registered in the year 2009 and the final report is said to have been filed in the year 2018. Even though the final report has been filed in this case, in view of the bar under Section 468 (1) Cr.P.C, the Court below cannot take cognizance of the final report, since the offences in question are punishable for a maximum period of two years and the respondent Police should have filed the final report within a period of three years as per Section 468 (1) (c) Cr.P.C. That has not been done in this case. That apart, the person who actually indulged in the fabrication of documents has also died. No useful purpose will be served by keeping the proceedings pending against the petitioner.



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Original Petition is allowed.
miscellaneous petition is closed.

Consequently, the connected

Sd/
Assistant Registrar(CO)

/True copy/

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Sub Assistant Registrar(CS-IV)

To

1.The Inspector of Police,
Mudukulathur Police Station,
Ramanathapuram District.

2.The Passport Officer,
Madurai Passport Office,
Race Course Road,
Madurai.

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

+1cc to Mr.R.VENKATESWARAN, Advocate, SR.No.88916

Cr1.O.P.(MD).No.4369 of 2017
03.10.2018

TSG

KK/SKN/SAR-4/27.10.2018/3P-5C