



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATE : 26.04.2018  
CORAM

**THE HONOURABLE MRS. JUSTICE R. THARANI**

Crl. R.C.(MD)No.363 of 2017

S.Rajendran

... Petitioner

Vs.

The State of Tamil Nadu,  
Rep. By the Inspector of Police,  
Arumanai Police Station,  
Kanyakumari District.  
Crime No.32 of 2012.

... Respondent

**Prayer :** This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the Closure order passed by the Judicial Magistrate No.I, Kuzhithuari dated 14.07.2016 in respect of the case in Crime No.32 of 2012 on the file of the respondent.

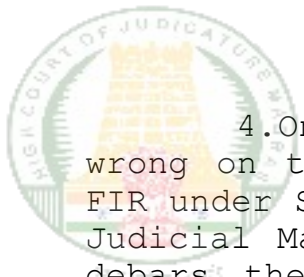
|                |                                                                 |
|----------------|-----------------------------------------------------------------|
| For Petitioner | : Mr.C.K.M.Appaji                                               |
| For Respondent | : Mr.K.Suyambulinga Bharathi<br>Government Advocate (Crl. Side) |

### **ORDER**

Heard Mr.C.K.M.Appaji, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondent.

2.This revision case has been filed to set aside the order passed by the Judicial Magistrate No.I, Kuzhithuari dated 14.07.2016 in respect of the case in Crime No.32 of 2012 on the file of the respondent, closing the case as bared by limitation under Section 468(2)(c) of Cr.P.C.

3.The allegation against the accused in Crime No.32 of 2012 on the file of the respondent police is that the third accused trespassed into the shop and removed the boundary stones and caused loss to the revision petitioner on 07.12.2011. The revision petition has filed a complaint before the learned Judicial Magistrate in C.M.P.No.926 of 2011 under Section 156(3) Cr.P.C., and on 13.12.2011, the learned Judicial Magistrate directed the respondent to register the case and accordingly a case was registered against the accused in Crime No.32 of 2012 under Sections 147, 447 and 434 of IPC. On 31.01.2012, the learned Judicial Magistrate closed the FIR as bared by limitation. Against the order, the petitioner has come forward with this petition.



4. On the side of the petitioner, it is stated that it is wrong on the part of the learned Judicial Magistrate to close the FIR under Section 468(2)(c) of Cr.P.C. It is stated that the learned Judicial Magistrate has failed to see that Section 468 of Cr.P.C., debars the Magistrate to take cognizance of the offence on the expiry of period of limitation as provided under Sub Section 2. But it does not mean that the charge sheet would not be filed after the period of limitation and the learned Judicial Magistrate can close the case only after the charge sheet is being filed. It is further stated that the learned Magistrate has not issued notice to the complainant before closing the case. The learned Magistrate cannot close the criminal case on his own motion and prayed that the order passed by the learned Magistrate is to be set aside.

5. On the side of the respondent, it is stated that the FIR was filed in the year 2011 and the charge sheet was not filed within three years and hence, the learned Magistrate has closed the FIR under Section 468(2)(c) of Cr.P.C.

6. Records perused. The offence is said to have been committed on 07.12.2011 and the FIR was received by Court on 02.02.2012 and the offences were under Section 147, 447, 434 of IPC which are punishable within two years. Under Section 468(3) of Cr.P.C., there is a bar to take cognizance for the purpose of limitation. The offence is punishable with imprisonment for a term extending, only one year but not exceeding three years. But the petitioner has not taken any steps to expedite the investigation and has not come forward to file private complaint during this period. When the Magistrate has not taken cognizance of a particular offence after the lapse of period of limitation there is no use in keeping the FIR pending without any progress. Only in case, where the respondent come forward to close the FIR notice is given to the complainant by the Court. There is nothing wrong in the order passed by the learned Judicial Magistrate in closing the FIR after the expiry of three years under Section 468(2)(c) of Cr.P.C. Hence, this Criminal Revision Petition is dismissed.

Sd/-  
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,  
Kuzhithurai.

2. The Inspector of Police,  
Arumanai Police Station,  
Kanyakumari District.



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

mrn

MK/SB/SAR 2/05.07.2018/3P/4C

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