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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

CRL.OP.NO.5065 OF 2019

AND

CRL.M.P.NO.2939 OF 2019

1.N.Suriya Muthu

2.N.Naresh Kumar

.. Petitioners/Accused

Vs.

1. State rep. By
The Inspector of Police,
C-5, Vengal Police Station,
Thiruvallur District.
(Crime No.206 of 2014)

... 1st Respondent/Complainant

2. P.Sathyabama,
Sub Inspector of Police,
All Women Police Station,
Uthukottai,
Thiruvallur District.

.. 2nd Respondent/Defacto Complainant

Prayer:-

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records pertaining to the FIR in Cr.No.206 of
2014 on the file of the first respondent and to quash the same.

For Petitioners : Mr.S.Mahaveer Shivaji

For Respondent-1 : Mrs.V.Saratha Devi
Government Advocate (Crl. Side)

For Respondent-2 : No Appearance

O R D E R

The FIR in Cr.No.206 of 2014 on the file of the first
respondent is under challenge in this petition.

2. Heard Mr.S.Mahaveer Shivaji, learned counsel for the
petitioners and Mrs.V.Saratha Devi, learned Government Advocate



(Crl. Side) appearing on behalf of the first respondent.

3. The impugned complaint, was made by the second respondent herein, who happens to be the Sub-Inspector of Police, All Women Police Station, Uthukottai. The complaint has been registered in Cr.No.206 of 2014 and is now being investigated by the first respondent herein. According to the complaint, the alleged incident happened on 07.06.2014 when the second petitioner along with two others were riding a two wheeler, which was intercepted by the second respondent in a routine search. The altercation that happened thereafter has given rise to the cause of action for the complaint.

4. The learned counsel for the petitioners submitted that in connection with the same occurrence, the petitioners had also given a complaint against the second respondent herein before the first respondent herein on 09.06.2014. Though the complaint given by the second respondent was taken on file and FIR has been registered, the petitioners' complaint has been kept pending without any registration.

5. The learned Government Advocate (Crl. Side) submitted that the investigation in the petitioners' complaint as well as the FIR made on the basis of the complaint of the second respondent are pending investigation.

6. This Court is unable to comprehend as to how the first respondent herein had taken cognizance of the averments made in the second respondent's complaint and chosen to register the FIR but had kept the complaint of the petitioners pending till date, particularly, when both the complaints arise out of the same occurrence. In normal circumstances, both the complaints ought to have been registered as a case and counter case.

7. The incident is said to have occurred on 07.06.2014 and more than five years have lapsed since the incident. There cannot be a proper investigation at this stage after a passage of five years. The inordinate delay in completing the investigation in the impugned FIR by itself would go against the police and any charge sheet filed after this inordinate delay would also be a lacuna in the mode of investigation and the petitioners may be entitled to succeed on the ground of laches also before the trial Court, in case, any final report is filed against them. On this ground of laches, this Court is of the affirmed view that petitioners would succeed.

8. It is pertinent to note that the Hon'ble Supreme Court in a decision in Biswanath Prasad Singh V. State of Bihar reported in 1994 supp (3) SCC 97 has held that the Investigation officer cannot take more than five years for filing of charge



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sheet. The relevant paragraphs of the decision is as follows:

"2. Besides the disciplinary proceedings, criminal proceedings were also launched against the appellant under Section 408 and other offences. The F.I.R. in that behalf was issued on 10-12-1977. It is stated that he surrendered in Court in January, 1978 and was enlarged on bail. Be that as it may, the charge-sheet was filed on February 9, 1983 after a lapse of more than 5 years. Thereafter, the prosecution evidence was adduced and charges framed by the Court on 25th April, 1989-another 6 years. The charges were framed under Sections 408 and 428, I.P.C. and Section 7 of the Essential Commodities Act. It is at this stage that the appellant approached the Patna High Court for quashing the criminal proceedings.

4. The situation today is that the prosecution has closed its case and the accused-appellant called upon to enter upon his defence. The question is whether in the above circumstances, we should quash the criminal proceedings on the ground that the right to speedy trial inhering in the accused is infringed.

5. It is true that the charges against the appellant relate to misappropriation of public funds. In such a case, we should take a more stricter view as indicated in the Constitution Bench decision in Abdul Rehman Antulay v. R.S. Nayak, . But there are certain circumstances in this case which induce us to interfere in the matter. The most glaring one is that even though the F.I.R. was issued on 10th December, 1977, the charge-sheet was filed only on 9th February, 1983, i.e., after a lapse of 5 years. No explanation is forthcoming for this extraordinary delay. May be, this being a case of misappropriation of public funds, the investigation may have taken a longer time but it cannot certainly take more than five years, having regard to the facts and circumstances of the case. Added to the said circumstance is the fact that even though there was no stay in this Special Leave Petition/ Criminal Appeal, the case has not progressed much as stated



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above. Moreover, the appellant has been dismissed from service on these very allegations. His provident fund and gratuity amounts have been forfeited and he has crossed the age of superannuation. Calling upon him now to enter upon defence, after 16 years, in all the facts and circumstances of the case, is bound to cause prejudice to him.

6. For the above reasons, we are of the opinion that the appellant's right to speedy trial has been infringed in this case and for that reason, the prosecution launched against the appellant is liable to be quashed and is quashed herewith. The appeal is accordingly allowed."

9. In the light of the above decision as well as the observations made in this order, the investigation in FIR in Cr.No.206 of 2014 on the file of the first respondent herein is hereby quashed. Consequently, the Criminal Original Petition stands allowed. Connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Inspector of Police,
C-5, Vengal Police Station,
Thiruvallur District.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Mahaveer Shivaji, Advocate, S.R.No.85938

Cr1.OP No.5065 of 2019
and

Cr1.M.P.No.2939 of 2019

SAI (CO)
CS/26/12/2019