

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.RC.No.844 of 2018

and

CrI.MP.No.9585 of 2018

1.K.Padmanaban
2.K.Sreedharan
3.K.Venkataraman

Petitioners / Accused 1 to 3

Vs

State Rep by
Inspector of Police,
Gudiyatham Police Station,
Gudiyatham,
Vellore District

Respondent / Complainant

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records in respect of the order dated 04.06.2018 passed in C.M.P.No.6713 of 2015 in C.C.No.190 of 2015 on the file of the Judicial Magistrate, Gudiyatham, Vellore District, set aside the same and discharge the petitioners from the case in C.C.No.190 of 2015.

For Petitioners : Mr.V.M.G.Ramakannan

For Respondent : Mr.R.Surya Prakash
Government Advocate

O R D E R

The respondent police registered a case against the petitioners for the offence under Section 294(b), 506(i) of IPC., After registering the case, the respondent police laid a charge sheet before the learned Judicial Magistrate, Gudiyatham. The case was taken on file in C.C.No.190 of 2015. During the pendency of the case in C.C.No.190 of 2015 before the learned Judicial Magistrate, Gudiyatham, the accused filed a petition under Section 239 of Cr.P.C., in C.M.P.No.6713 of 2015 before the learned Judicial Magistrate, Gudiyatham. After an elaborate enquiry the learned Judicial Magistrate, Gudiyatham, dismissed the said petition. As against the said order of dismissal the petitioners filed the present Criminal Revision Case before this Court.

2 The learned counsel for the petitioners would submit that there is no complaint filed against the revision petitioners and also they have submitted that the main Original Petition No.300 of 2005 is not related to the present revision petitioners and further, the cause of action in the petitions are of the year 2010 but the charge sheet is filed in the year 2015. which is time barred. Therefore, the charge sheet filed only beyond the limitation and also FIR is not related to the revision petitioners. In support of their contention, the learned counsel for the petitioners relied upon the following judgment of the Hon'ble Supreme Court in the case of **A.Packiaraj Vs. Mrs. Sarah Mathew** reported in **2002-2-L.W. (Cr1.) 948** and stated that the Hon'ble Supreme Court held that the Magistrate when taking the case on file without taking into consideration of the complaint which was time barred and therefore it is necessary to interfere with the order passed by the learned Magistrate.

3 Heard both sides and perused the entire materials available on records.

4 Admittedly, in this case, the case was registered by the respondent police against the revision petitioners. In FIR itself they have stated that based on the direction of this Court in Cr1.OP.Nos.22680 & 26255 of 2012 dated 02.08.2013, the FIR was registered on 27.11.2013 and laid a charge sheet on 26.03.2013, the case was taken on file by the trial Court on 21.11.2015 which is within the period of limitation. It is settled law the FIR is not an encyclopedia. If investigation reveal prima facie case, the Court can taken cognizance of the case.

5 It is a well settled proposition, the Court has to see the records produced by the prosecution under Section 173 of Cr.P.C., at the time of deciding the petition under Section 239 of Cr.P.C., whether any prima facie case is made out against the accused and not the defence taken by the accused and the probative value of the materials need not to be gone into at this stage and the same can be done only after recording the evidence during the trial. Therefore the decisions referred to by the learned counsel for the revision petitioners are not applicable to the present case on hand. The Magistrate while deciding the petition under Section 239 of Cr.P.C., has to consider only the records produced by the prosecution under Section 173 of Cr.P.C. In this case, the Magistrate has clearly observed that the date of the direction given by this Court, for investigation and also the date of filing the charge sheet, by the respondent Police.

6 Therefore the defence taken by the learned counsel for the revision petitioner cannot be considered at this stage. This Court does not find any merit in this revision. Accordingly, this present Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

sbn

To

1. The Judicial Magistrate,
Gudiyatham,
Vellore District.
2. The Inspector of Police,
Gudiyatham Police Station,
Gudiyatham, Vellore.
3. The Public Prosecutor,
High Court, Madras-600 104.

+1CC to Mr.V.M.G.Ramakkannan Advocate SR.NO.31799

Cr1.RC.No.844 of 2018
and
Cr1.MP.No.9585 of 2018

SS[CO]
MK:08/06/2019

सत्यमेव जयते

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