

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.26713 of 2017
and CrI.M.P.No.15380 of 2017

R.Moorthi

...Petitioner

-Vs-

1. The Inspector of Police,
Gudiyattam Town Police Station,
Gudiyattam.

2. S.Senthil Velan Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records pursuant to the First Information Report in Crime No.305 of 2013, on the file of the 1st respondent police dated 01.04.2013 and quash the same in so far as the petitioners are concerned.

For Petitioner : Mr.B.Leninbalu

For Respondent-1 : Mr.Mohammed Riyaz
Additional Public Prosecutor

For Respondent-2 : No Appearance

O R D E R

This Criminal Original Petition has been filed seeking to quash the First Information Report pending investigation in Crime No.305 of 2013, on the file of the 1st respondent/police, dated 01.04.2013.

2. The first respondent/police has registered a case FIR in Crime No.305 of 2013 against the petitioner and others for the alleged offences punishable under Sections 147, 341, 294(b) 506 (i) IPC.

3. It is seen that the First Information Report has been registered by the first respondent/police on 01.04.2013 for the occurrence that took place on 31.03.2013 as against the petitioner. The first respondent/police did not complete the enquiry and filed a final report within the period of limitation. Bar to taking cognizance after the lapse of period

of limitation has been enumerated in Section 468 of CrPC., which reads as follows:

468. Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) Six months, if the offence is punishable with fine only;

(b) One year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) Three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

[(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]

4. Thus, the punishment for the offence punishable under Section 506(i) IPC is two years and the first respondent/police ought to have filed the charge sheet on or before 31.03.2016. The limitation for taking cognizance is three years from the date of registration of the FIR. Admittedly, the first respondent/police did not conduct enquiry or filed any charge sheet on or before 31.03.2016.

5. Further, It is also seen from the copy of the application filed before the learned Judicial Magistrate, Gudiyatham, Vellore District and the same was returned on 30.10.2017 for the reason that the charge sheet has not yet been filed till date. Therefore, the FIR cannot be sustained.

6. Considering the above facts and circumstances of the case, the case is pending since 2013, no purpose will be served in keeping this petition pending and to meet the ends of justice, this Court is inclined to quash the F.I.R. in Crime No.305 of 2013. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

msm
To

1. The Judicial Magistrate, Gudiyatham.
2. The Inspector of Police,
Gudiyattam Town Police Station, Gudiyattam.
3. The Public Prosecutor, High Court, Madras.
- +2 Ccs to Mr.B.Leninbalu, Advocate sr 37934.

Crl.O.P.No.26713 of 2017

RK (CO)
SP (16/05/2019)

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