



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.31407 of 2019

and

Crl.MP.No.17175 of 2019

1. Sivalingam

2. Kanmani Rajadurai

...Petitioners

Vs

1. The Inspector of Police
Sholingur Police Station,
Sholingur,
Vellore District.
(Crime No.399/19)

2. Prasanna

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the case in Crime No.399 of 2013 pending investigation on the file of the 1st respondent and quash the same with regard to the petitioners.

For Petitioners: Mr.K.G.Senthil Kumar

For Respondents: Mrs.V.Saratha Devi
Government Advocate (Crl. Side)
for R1

O R D E R

By consent of both the learned counsel for the petitioners as well as the learned Government Advocate (Crl. Side) appearing for the 1st respondent, this Criminal Original Petition is taken up for final disposal.

2. The grievance of the petitioners is that though the FIR came to be registered way back in 11.07.2013, the investigation has not been completed till date. According to the learned counsel for the petitioners, the offences for which the



petitioners have been charged is barred by limitation, in view of Section 468 of Cr.P.C.

3. Per contra, the learned Government Advocate (Crl. Side) would submit that the complaint has already been duly enquired and the charge sheet has been filed on 12.08.2013 and the same is yet to be taken on file.

3. It is needless to point out that a mere presentation of a charge sheet will not amount to filing of charge sheet unless and until it is taken on file by the learned jurisdictional Magistrate and therefore, it would not be construed that a charge sheet has not been filed in the present case. While that being so, the other submission of the leaned counsel for the petitioners that the complaint itself is barred by limitation in view of Section 468 of Cr.P.C, gains significance.

4. The petitioners herein have been charged for the offences under Sections 294(b), 323 and 324 and the maximum punishment which can be imposed for these offences is three years. Since the complaint is pending for more than six years and 4 months, this Court is unable to appreciate as to how a cognizance of a charge sheet, if any, could be taken, in view of the bar under Section 468 Cr.P.C.

5. In view of the laches as well as the bar under Section 468 Cr.P.C, this Court is of the view that the petitioners are entitled to succeed. Accordingly, the impugned FIR in Crime No.399 of 2013, is quashed and the present Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Inspector of Police
Sholingur Police Station,
Sholingur,
Vellore District.

2. The Public Prosecutor,
High Court of Madras.



+1cc to Mr.K.G.Senthil Kumar, Advocate SR.97463

Crl.O.P.No.31407 of 2019
and
Crl.MP.No.17175 of 2019

WEB COPY

VD(CO)
CB(06/01/2020)