



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

CORAM

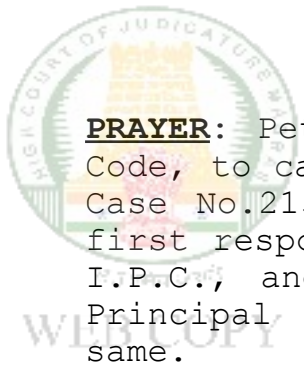
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL.O.P. (MD) No. 1299 of 2016
and CRL.M.P. [MD] Nos. 655 & 656 of 2016

1. R. Sahaya Inba Saharan
2. D. Devid Appadurai
3. P. Iruthayarajan
4. R. Benico
5. R.Devasigamani
6. M. Antony Kisore
7. D. Hamlet Mani
8. I. Selvan
9. D.Mohan
10. M. Dalton
11. G. George Kathiravan
12. P. Pevinpasel
13. D. Charles Antony
14. D. Patric Xavier
15. P. Xavior
16. R. Eugin
17. P. Pavul Jenico Prabhu
18. L. Stalin @ Babuji
19. A. Maria Louis
20. Y. Anthony Arul Singh ... Petitioners/Accused Nos.1 to 3
and 5 to 20

Vs.

1. The State
represented by the Inspector of Police,
Kottar Police Station, Nagercoil.
Kanyakumari District.
(Crime No.1313 of 2012)



PRAYER: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to charge sheet in Sessions Case No.215 of 2015 in Crime No.1313 of 2012, on the file of the first respondent, under Sections 147, 148, 447, 448, 506(ii) of the I.P.C., and Section 3, 4 of T.N.P.P.D.L. Act, pending before the Principal District and Sessions Court, Kanyakumari and quash the same.

For Petitioners : Mr.T.Lajapathi Roy

For Respondent-1 : Mr.A.Robinson,
Government Advocate
(Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the final report in Sessions Case No.215 of 2015, pending against these petitioners.

2. These petitioners are the accused Nos.1 to 3 and 5 to 20 wherein the respondent Police had filed a final report as against these petitioners and another, for the offence punishable under Sections 147, 148, 447, 448, 506(ii) of the I.P.C., and Section 3, 4 of T.N.P.P.D.L. Act. Eventhough, this petition was filed in the year 2016, neither admitted nor any notice was ordered for the past 2 years.

3. On 22.02.2019, when the matter is taken up for hearing, it was represented on behalf of the petitioners that the complainant is no more and therefore, nothing survives on the complaint and on that ground it has to be quashed.

4. This Court by order, dated 22.02.2019, directed these petitioners to produce the death certificate of the complainant and the final report filed by the police in the counter complaint and an affidavit from the list of witnesses-2 & 3 in Sessions Case No.215 of 2015. The petitioners have not produced none of the materials before this Court. Therefore, this Court is constrained to peruse the grounds raised in favour of the petition to quash the case pending against them in Sessions Case No.215 of 2015. The following grounds have been raised in respect of the petition:

(i). that the averments in the complaint would squarely fall under the Category Nos.1 & 3 in ***Bhajanlal Case (1992 Supp (1) SCC 355)***,

(ii). the case was registered on 24.08.2012 by the first respondent police and the final report was filed only on 28.09.2015, after a lapse of 3 years and therefore, the final report has to be quashed on the ground of limitation.



(iii). there is no specific over tact against the petitioners and the complaint is absolutely vague and factitious.

(iv). the issue involved is purely civil in nature and the defacto complainant has converted the same into a criminal case.

5. Per contra, the learned Government Advocate (Criminal Side) would submit that the accused have formed into an unlawful assembly, with regard to the dispute of Church at Maravan Kudiyirppu Village, Nagercoil, Kanyakumari District.

6. The first accused as a Village Headman decided to renovate the Church, for which there was opposition and has filed a suit as against the first accused before the Principal Sub-Court, Nagercoil in O.S. No. 195 of 2011 and obtained an order of injunction as against the first accused. Despite the order of the Court, on 24.08.2012, at about 02.00 a.m., these accused have demolished the church and caused damage to the tune of Rs.15 lakhs. Based on the complaint, the first respondent police had also conducted an investigation and examined 15-witnesses and thereafter, filed the final report as against the petitioners for the offences under Section 147, 148, 447, 448, 506(ii) of the I.P.C., and Section 3, 4 of T.N.P.P.D.L. Act.

7. The learned Government Advocate (Criminal Side) has also pointed out that the offences under Section 147, 148, 447, 448, 506 (ii) of the I.P.C., and Section 3, 4 of T.N.P.P.D.L. Act is also attracted in this case as such the limitation, as claimed by the petitioners, would not apply.

8. As stated by the learned Government Advocate (Criminal Side) the final report has already been filed and 15-witnesses have been cited. The petitioners are at liberty to raise all the grounds raised in the petition before the Trial Court.

9. With these directions, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitioners are closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

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To



2. The Inspector of Police,
Kottar Police Station, Nagercoil.
Kanyakumari District.

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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-52106[F] dated 06/03/2019)

Crl.O.P. (MD) No.1299 of 2016

ES/07.06.2019/4P/5C