



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.15892 of 2019

and

Crl.M.P.(MD)No.9437 of 2019

WEB COPY

Nagai Thiruvalluvan

...Petitioner

-Vs-

The Inspector of Police,
Eravadi Tharga Police Station,
Ramanathapuram District.

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to Call for the records pertaining to the First information Report in Crime No. 92/2012 dated 19.06.2012 on the file of the Respondent and quash the same as illegal.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondent

: Mr.K.Suyambulinga Bharathi

Government Advocate(crl.side)

ORDER

This Criminal Original Petition has been filed to quash the First information Report in Crime No. 92 of 2012, dated 19.06.2012 on the file of the respondent.

2.The learned counsel for the petitioner would submit that the petitioner is a sole accused in this case. The case has been registered for the offences under Section 153-A r/w 505(1)(2) I.P.C, as against the petitioner. The offence is punishable for a period of three years imprisonment. Therefore, the period of limitation to file a charge sheet is three years. It is relevant to extract the procedure laid down under Section 468 Cr.P.C., 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.

3. On perusal of records, till today, the respondent did not complete the investigation and file a final report. In fact the petitioner filed copy application before the concerned jurisdictional Magistrate and it was returned for the reason that 'no charge sheet has been filed' in Crime No.92 of 2012 as against the petitioner. It is also relevant to extract under Sections 153-A and 505 (1)(2) Cr.P.C., as follows:

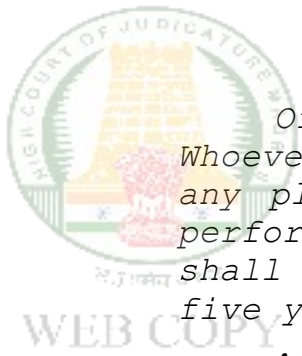
153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony –

(1) Whoever–

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.



Offence committed in place of worship, etc.-(2)
Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

505. Statements conducing to public mischief -

(1) Whoever makes, publishes or circulates any statement, rumour or report,-

(a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community; shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Statements creating or promoting enmity, hatred or ill-will between classes -

Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.-

Whoever commits an offence specified in sub-section (2) in any place of worship or in an assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Exception.-It does not amount to an offence, within the meaning of this section when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes



or circulates it in good faith and without any such intent as aforesaid.

4. Accordingly, the maximum punishment for the offence under Section 153A I.P.C. is three years and the maximum punishment for the offence under Section 505 (1) and (2) of I.P.C. is extended to three years. Therefore, the respondent ought to have completed the investigation within a period of three years from the date of the F.I.R. Admittedly, the respondent did not complete the investigation and did not file the final report before the concerned jurisdictional Magistrate. Therefore, on this ground alone, the First Information Report in Crime No.92 of 2012, cannot be sustained as against the petitioner beyond the period of seven years since the F.I.R. has been registered on 19.06.2012, till today, even after lapse of seven years, the respondent did not complete the investigation and did not file the final report.

5. In view of the above discussion, this Criminal Original Petition is allowed and the First information Report in Crime No. 92 of 2012, dated 19.06.2012 on the file of the respondent, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

Ls
To

1. The Inspector of Police,
Eravadi Tharga Police Station,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-96782[F]dated 07/11/2019)

Crl.O.P. (MD)No.15892 of 2019
06.11.2019

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