

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.01.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.1003 of 2020

and Crl.MP.Nos.587 & 589 of 2020

1.Thangamuthu
2.Mayil Sundaram
3.Karumannan
4.Rajavadivelu
5.Kumar
6.Gandhi Murugesan
7.Apple Murugesan
8.Dhaveethu
9.Sivagnanam
10.Shanmugam
11.Senathipathi

.... Petitioners

Vs.

State Represented by
The Inspector of Police,
Mohanur Police Station,
Namakkal District.
Cr.No.132 of 2016.

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the charge sheet filed by the respondent against the petitioner in STC.No.205 of 2019 on the file of the Judicial Magistrate Court No.II, Namakkal.

For Petitioners : Mr.S.Senthil

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed by the Accused Nos.1 to 11 to quash the charge sheet filed in STC.No.205 of 2019 on the file of the Judicial Magistrate No.2, Namakkal.

2. The learned counsel for the petitioner has submitted that based on the complaint lodged by one

Mr.Thiraviam, flying squad officer, FIR has been registered in Cr.No.132 of 2016 on 14.05.2016 under sections 285, 171-H and 188 IPC. He further submitted that so far as the offences under Sections 285 and 188 IPC are concerned the maximum punishment prescribed for the said offences is six months imprisonment and so far as Section 171-H is concerned it is only a finable offence. He further submitted that as per Section 468 of Cr.P.C. no court shall take cognizance of an offence after expiry of the period of limitation and that the period of limitation shall be six months, if the offence is punishable to fine only; one year, if the offence is punishable with imprisonment for a term not exceeding one year and three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. But in this case, the charge sheet was filed on 14.03.2019 and on that date, the period of limitation was expired and hence the learned Magistrate ought not to have taken the case on file. He further submitted that in so far as the offence under Section 188 of IPC is concerned, there is a specific bar under Section 195 of Cr.P.C for taking cognizance based on the police report and in so far as other offences are concerned, they are only ancillary offences and hence the charge sheet has to be quashed, on that ground also.

3. The learned Additional Public Prosecutor has fairly conceded that there is a specific bar under Section 195 of Cr.P.C for taking cognizance based on the police report in respect of the offence punishable under Section 188 of IPC. He also conceded that the charge sheet is time barred and hence he requests to pass appropriate order.

4. For the offence punishable under Section 171- H, the punishment prescribed is fine, which may extended to Rs.500/-. For the offence under Section 188 of IPC is concerned, punishment prescribed is six months. For the offence under Section 285 IPC also, the punishment prescribed is only six months. As per Section 468 Cr.P.C no court shall take cognizance of an offence after expiry of the period of limitation and that the period of limitation shall be six months if the offence is punishable with fine only and one year if the offence is punishable with imprisonment for a term not exceeding one year. In this case, FIR was registered on 14.05.2015 but charge sheet was filed only on 14.03.2019. So, it is clear that only after expiry of the period of limitation, the learned Judicial Magistrate has taken cognizance of the aforesaid offences. Further there is a specific bar under Section 195 of Cr.P.C for taking cognizance based on the police report with regard to the offence punishable under section 188 IPC. The

other offences are only ancillary offences. Once taking of cognizance based on the police report for the offence under Section 188 of IPC is barred in view of Section 195 of Cr.P.C, the other offences viz., under Sections 171-H and 285 of IPC also shall go. Therefore on this ground also the charge sheet has to be quashed.

5. For the aforesaid reasons, this petition is allowed. The charge sheet under STC.No.205 of 2019 on the file of the learned Judicial Magistrate No.2, Namakkal is quashed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Namakkal.
2. -Do- Thro The Chief Judicial Magistrate,
Namakkal.
- 3.The Inspector of Police,
Mohanur Police Station,
Namakkal District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Senthil, Advocate Sr.4864

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srg 19/03/2020