



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.01.2020
CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD).No.79 of 2020
and Crl.M.P.(MD).No.6 of 2020

M.Chandran .. Petitioner/sole accused
Vs.

1.State through,
The Inspector of Police,
Thondi Police Station,
Ramanathapuram District. .. Respondent / Complainant

2.C.Loganathan .. Respondent/De facto Complainant

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.119 of 2016, on the file of the first respondent i.e., Inspector of Police, Thondi Police Station, Ramanathapuram District and quash all the further proceedings as against the petitioner.

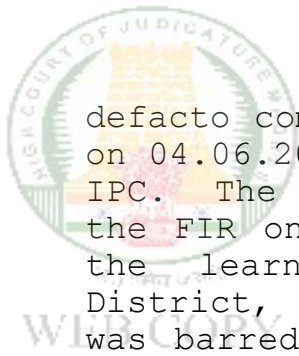
For Petitioner : Mr.K.Ramanathan
For Respondent No.1 : Mrs.S.Bharathi
Government Advocate (Criminal side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in Crime No.119 of 2016, on the file of the first respondent Police.

2. The learned counsel appearing for the petitioner would submit that a case as against the petitioner in Crime No.119 of 2016 pending investigation on the file of the first respondent police for the offence under Section 304(A) of IPC.

3. The case of the prosecution is that on 03.06.2016 at about 10.00 p.m., while the brother of the defacto complainant Muthu @ Balakrishnan was returning from Nambuthalai to Thondi in his two wheeler bearing regn. No.TN-65-AZ-3079 - Passion Pro near Thondi village, the petitioner/accused has driven his two wheeler bearing regn. No. TN-65-P-2334 in a rash and negligent manner and dashed against the two wheeler of the brother of the defacto complainant resulting which the brother of the defacto complainant had sustained injuries and died on the spot. Based on a complaint given by the



defacto complainant, a case was registered in Crime No. 119 of 2016 on 04.06.2016 for the alleged offences under Sections 279, 304(A) of IPC. The petitioner has filed a present petition seeking to quash the FIR on the ground that final report has not been filed before the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District, within a stipulated period of three years and thereby, was barred by limitation under Section 468 (2)(c) of Cr.P.C. The charge for the offence under section 304(A) of IPC for which the petitioner will be punished for a period which may extend to two years or with fine or both and that there is a specific bar under Section 468 of Cr.P.C. for taking cognizance for the offence under Section 304(A) of IPC, beyond the period of three years. The incident had occurred on 03.06.2016 and though three years lapsed the respondents have not filed final report as against the petitioner till date.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent police would submit that the final report has not filed so far by the respondents. She would also submit that the first respondent has not taken any steps to file final report and no explanation has also been given by the first respondent so far.

5. Heard both sides. Perused the records.

6. The case has been reported for the offences under Sections 279 & 304 (A) of IPC. The incident has happened on 03.06.2016 and the case has been report on 04.06.2016.

7. **Section 279 of IPC** "Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both".

8. **Section 304 (A) of IPC** : "Causing death by negligence - Whoever causes the death of any person by doing any rash and negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

9. **Section 468 of Cr.P.C** imposes bar for taking cognizance of certain offences after a period of limitation. Section 468 of Cr.P.C is extracted hereunder:

"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-Sectin (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 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. "

10. As per section 468 (2) (c) of Cr.P.C. the final report after investigation for the offences under Sections 279 & 304(A) of IPC must have been filed within a period of Three Years. The final report has not been filed till date. The respondent has also not stated any reason for not filing the final report before the concerned Court till date. While such being so, the Court cannot take cognizance of the complaint after a period of Three Years from the date of registration of FIR. No purpose will be served by allowing the case in Crime No. 119 of 2016 to be kept pending.

11. In view of the same, the proceedings in Crime No. 119 of 2016 on the file of the first respondent police as against the petitioner is hereby quashed. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed. However, direction is issued to the Superintendent of Police, Ramanathapuram to conduct enquiry and take appropriate action against the person whom responsible for not filing the final report, within a period of limitation.

Sd/-

Assistant Registrar (AD-II)

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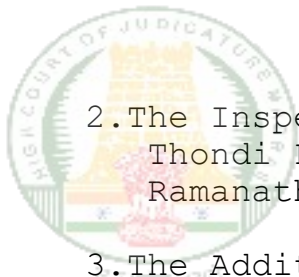
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Sub Assistant Registrar (CS)

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To

1. The Superintendent of Police,
Ramanathapuram District.



2.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.

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

+2 CC to Mr.K.RAMANATHAN, Advocate (SR-2178[F] dated 21/01/2020)

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21.01.2020

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