



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

CrI.O.P.[MD]No.7138 of 2020

and

CrI.M.P(MD) No.3512 of 2020

N.Vignesh

...Petitioner/Accused No.12

Vs.

1.The State Rep by
The Sub Inspector of Police,
Sempatty Police Station,
Dindigul District.
In Crime No.328 of 2015

... 1st Respondent/
Complainant

2.Manickam

... 2nd Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.328 of 2015 dated 05.10.2015 alleged offences U/s.147, 148, 341, 324, 294(b), 506(ii) of IPC on the file of the first respondent police and quash the same as against the petitioner as illegal.

For Petitioner

: Mr.M.Maran

For R-1

: Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the First Information Report in Crime No.328 of 2015 dated 05.10.2015 for the alleged offences under sections 147, 148, 341, 324, 294(b) and 506(ii) of IPC on the file of the first respondent police and quash the same as against the petitioner as illegal.

2.The learned counsel appearing for the petitioner would submit that on 04.10.2018, the petition mentioned case has been registered against the petitioner and thereafter, for the past five years investigation has not been completed and the final report has also not been filed. Further, the allegation found in the FIR has not constituted any offence as alleged by the prosecution.

3.The learned Additional Public Prosecutor appearing for the respondent police would submit that as of now the final report is

<https://hcservices.ecourts.gov.in/hcservices/>



ready and only due to the pressure of work, the same has not been filed.

4. In general, whenever any information in relation to commission of cognizable or non-cognizable offence is received, the police officer shall adhere to the procedure contemplated under Sections 154 & 155 of the Criminal Procedure Code and after conducting necessary enquiry/investigation, file final report under Section 173 of Cr.P.C. Such investigation under Chapter XII of the Criminal Procedure Code shall be completed without any unnecessary delay. The delay in filing a final report in the present case, is inordinate and unjustified.

5. In the said circumstances, though it was contended on the side of the petitioner that inordinate delay in filing the final report is the best ground for quashing the entire proceedings against the petitioner, now the learned Additional Public Prosecutor appearing for the respondent police made submissions that during the time of occurrence the petitioner herein caused simple injury to the defacto complainant using deadly weapons and further in the course of the same transaction, along with the petitioner, some more accused were participated and caused injury to the second respondent. He would further submit that now the investigation is completed and the final report is also made ready and the same is yet to be presented before the Jurisdictional Magistrate.

6. Now on considering the rival submissions, initially the First Information Report has been registered for the offences under Sections 147, 148, 341, 324, 294(b) and 506(ii) of I.P.C. In the above referred offences for the offence under Section 506(ii) of I.P.C., prescribed period for completing the investigation has not been provided under Section 468 Cr.P.C., since the said offence was punishable with 7 years imprisonment. Furthermore, the alleged First Information Report was registered on 05.10.2015 and as of now only five years period is completed so the said delay cannot be said as inordinate delay. In the said circumstances, it is necessary to see the judgment reported in **1992 Supp (1) Supreme Court Cases** in the case of **State of Haryana and others Vs Bhajan Lal and others**, in which, our Hon'ble Apex Court has held as follows:-

The power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. The extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint.

7. Therefore, applying the principle set out in the above



referred case, since the delay pointed out by the petitioner is not a huge one, if the prayer sought by the petitioner is granted in his favour, it would affect the rights of the second respondent. Hence, the prayer sought by the petitioner cannot be granted in the said circumstances. However, considering the facts and circumstances of the case, in the interest of justice, this Court passes the following directions:-

The first respondent police is directed to file a charge sheet within one month from the date of receipt of a copy of this order. After assigning the case number, the learned Judicial Magistrate concerned, is directed to dispose of the same within a period of three months from the date on which the final report has been filed by the first respondent.

8. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Sub Inspector of Police,
Sempatty Police Station,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. [MD] No. 7138 of 2020
09.07.2020

KB (23.07.2020) 3P 3C