



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2020

CORAM:

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P(MD)Nos.12160 to 12162 of 2020

Vignesh	... Petitioner in O.P.12160/2020
Selvam	... Petitioner in O.P.12161/2020
Muthumuniyandi	... Petitioner in O.P.12162/2020

vs.

1)State through
The Inspector of Police,
Mallankinaru Police Station,
Virudhunagar District.
(Crime Nos.175, 177 and 179 of 2017)

2)K.Veeranan ... Respondents in all petitions

COMMON PRAYER: Petitions filed under Section 482 of Code of Criminal Procedure, to call for the records in Crime Nos.175, 177 and 179 of 2017 respectively on the file of the 1st respondent police and quash the same as illegal, abuse of process of law and barred by limitation.

(in all petitions)

For Petitioner : Mr.M.Jothi Basu

For R1 : M/s.Veronica Vincent
Government Advocate(Crl.Side)

COMMON ORDER

These petitions have been filed to call for the records in Crime Nos.175, 177 and 179 of 2017 on the file of the 1st respondent police and quash the same as illegal, abuse of process of law, barred by limitation.

2.The allegation in the FIRs is that on 11.09.2017, the accused persons had travelled together in a Tata Sumo car to remember the 60th birth anniversary of Immanuvel Sekaran and raised slogans in violation of the prohibition order passed under Section 30(2) of the Police Act, 1861, and caused disturbance to the free flow of public and refused to obey the police instructions. Based on the complaint of the 2nd respondent/Sub Inspector of Police, a



case in Crime No.175/2017 under Sections 143 and 188 IPC was registered against the petitioners and 5 other accused persons.

3.The learned counsel for the petitioners would state that on the face of FIR, it does not make out any offence and that the issue in the present case is covered by the decisions of this Court in Jeevanantham vs. State reported in 2018 (2) K.W. (Crl) 606. The learned counsel would further state that though the FIR has been filed in 2017, till date, no charge sheet has been filed and therefore, the respondent/police is barred under Section 468(2)(b) IPC to take cognizance against the petitioners beyond one year. Thus, he would pray to quash the FIRs.

4.The learned Government Advocate (Crl.Side) would state that without any permission, the petitioners had travelled to remember the 60th birth anniversary of Immanuvel Sekaran in violation of the prohibition order passed under Section 30(2) of the Police Act, 1861, and she would fairly state that no violence or untoward incident had taken place and charge sheet has not been filed till date.

5.Heard the learned counsel for the petitioners as well as the learned Government Advocate(Crl.Side) for the respondents.

6.Section 468(2) Cr.P.C reads 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-

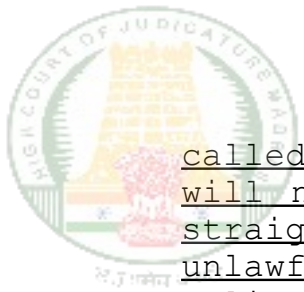
(a) six months, if the offence is punishable with fine only.

(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 term exceeding one year but not exceeding three years.''

7.Admittedly, FIR has been registered on 14.09.2017 for the offences under Sections 143 and 188 IPC. As stated by the learned counsel for the petitioners, charge sheet should have been filed within one year i.e., on or before 14.09.2018, but till date, the charge sheet has not been filed. Therefore, there is a bar under Section 468(2) Cr.P.C to take cognizance against the petitioners after the lapse of the period of limitation.

8.In the decision relied on by the petitioners reported in **2018 (2) K.W. (Crl) 606, Jeevanantham vs. State**, this Court has held



'As stated above, a mere violation of the so-called promulgation under Section 30(2) of the Police Act will not make out an offence under Section 143 of IPC by straight away declaring an assembly of persons to be an unlawful assembly. The power under Section 30(2) of the Police Act is merely regulatory in nature. In fact, Section 32 of the Police Act itself provides for a penalty for disobeying an order issued under Section 30(2) of the Police Act with a punishment of a fine not exceeding 200 rupees. Where as an offence under Section 143 of IPC is punishable with imprisonment for a term which may extend to 6 months. Therefore, a violation of the so-called promulgation under Section 30(2) of the Police Act will not by itself constitute an offence under Section 143 of IPC. In all the cases, the assembly of persons were made to express dissatisfaction of the governance and claiming for minimum rights that are guaranteed to a ordinary citizen. If such an assembly of persons are to be trifled by registering an FIR under Section 143 of IPC and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution.'

9.In my considered opinion, the above judgments are squarely applicable to the facts and circumstances of the present case and the FIRs are liable to be quashed both on the ground of limitation and in view of the judgment in Jeevanandam's case. Accordingly, FIRs in Crime Nos.175, 177 and 179 of 2017 on the file of the 1st respondent are quashed and these Criminal Original Petitions are allowed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

bala/das

To

1)The Sub Inspector of Police,
Mallankinaru Police Station,
Virudhunagar District.



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

+3cc to Mr.M.JothiBasu, Advocate Sr.Nos.23092 to 23094

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COMMON ORDER MADE IN
Cr1.O.P(MD)Nos.12160 to 12162 of 2020
DATED : 26.11.2020

TP (CO)
NR (08/01/2020) 4P : 6C