**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Orders Reserved on	28.07.2020
Orders Pronounced on	07.08.2020

CORAM:**THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN****CRL OP(MD)No.14988 of 2018****and****CRL MP(MD)Nos.6640 & 6641 of 2018**

1.N.Mohan
2.M.Nirmala

... Petitioners / A1 and A2

Vs.

1.State Represented by
The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District. ... 1st Respondent / Complainant

2.M.Manikandan ... 2nd Respondent / Defacto Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in S.T.C.No.730 of 2016, on the file of the learned Judicial Magistrate, Aruppukottai in Crime No.628 of 2013, dated 06.11.2013, on the file of the Respondent No.1 Police, for alleged offences U/s.294(b) and 323 of IPC., and quash the same as illegal.

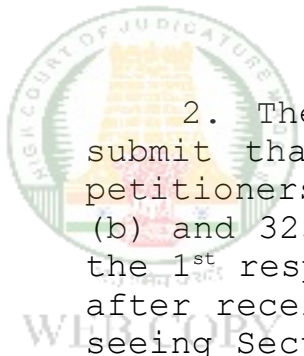
For Petitioners : Mr.T.Thirumurugan

For Respondent-1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl. Side)

For Respondent-2 :Mr.N.Sathish Babu

O R D E R

This Criminal Original Petition has been filed to quash the Charge sheet pertaining to S.T.C. No.730 of 2016, which has been filed in Crime No.628 of 2013, dated 06.11.2013, on the file of the 1st respondent police, for the alleged offence under Sections 294(b) and 323 of IPC.



2. The learned counsel appearing for the petitioners would submit that in earlier, a case has been registered against the petitioners in Crime No.628 of 2013, punishable under Sections 294 (b) and 323 of IPC. Later on, after completing the investigation, the 1st respondent has filed a charge sheet in the year of 2016 and after receiving the same, the learned Judicial Magistrate, without seeing Section 468 of Cr.P.C., assigning the case number, which is an abuse of process of law and accordingly, the charge sheet filed by the first respondent Police is liable to be quashed.

3. I have heard the learned counsels appearing on either side and perused the materials available on record.

4. Upon considering the arguments advanced by the learned counsels appearing on either side, it is necessary to see the punishment provided to the offence under Sections 294(b) and 323 of IPC. It is made clear that the offence under Section 294(b) is punishable with a fine of Rs.1000/-. Further, the offence under Section 323 IPC., is punishable for imprisonment for one year or fine of Rs.1000/- or both.

5. In the said circumstances, it is necessary to see Section 468 of Cr.P.C., which reads as follows:-

"468. (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."



6. So, according to the said provision, for the offences referred above, no Court shall take cognizance after a period of one year from the date of occurrence. But, here is a case that the learned Judicial Magistrate No.I, Aruppukottai, took cognizance in the year of 2016 for the alleged offence under Sections 294(b) and 323 of IPC, which had happened in the year of 2013. Therefore, according to Section 468 of Cr.P.C., taking cognizance after a period of one year is an abuse of process of law and therefore, the charge sheet pertaining to S.T.C. No.730 of 2016, which has been filed in Crime No.628 of 2013, dated 06.11.2013, on the file of the 1st respondent police, for the alleged offence under Sections 294(b) and 323 of IPC., is liable to be quashed.

7. In the result, this Criminal Original Petition is allowed and the charge pertaining to S.T.C. No.730 of 2016, pending on the file of the learned Judicial Magistrate, Aruppukottai, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

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 Judicial Magistrate, Aruppukottai, Virudhunagar District.
- 2.The Inspector of Police, Aruppukottai Town Police Station, Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in

CRL OP(MD)No.14988 of 2018

07.08.2020

se (CO)

TR(19.08.2020) 3P 4C