



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18774 of 2021
in
Crl.M.P.No.10333 of 2021

1.Kathiravan Alias Raja
2.T.Bose alias Subhash Chandra Bose ...Petitioners

Versus

1.The Inspector of Police
N3, Muthalaipet Police Station
Chennai 600 001.

2.Kannan ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the C.C.No.774 of 2021 on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai.

For Petitioners : Mr.A.R.Balaji

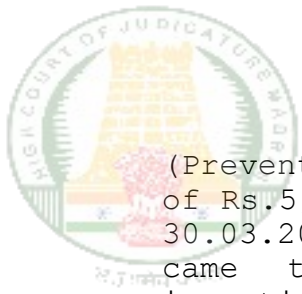
For Respondent : Mr.R.VinothRaja for R1
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to call for the records and quash the C.C.No.774 of 2021 on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai.

2. The petitioners, who were facing trial in C.C.No.774 of 2021 on the file of the XVI Metropolitan Magistrate, George Town, Chennai, for the offence under Sections 4A (1a) r/w 4B of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, has filed this petition.

3. The grievance of the petitioners is that the maximum period of punishment for violation of offence under Section 4A (1a) r/w 4B of the Tamil Nadu Open Places



(Prevention of Disfigurement) Act, 1959, is one year and fine of Rs.5,000/-. In this case, the occurrence had taken place on 30.03.2019 and on the same day, the First Information Report came to be registered. However, after completing the investigation, charge sheet was filed only on 16.03.2021. Hence, the case is haplessly barred by limitation under Section 468 of Cr.P.C. Therefore, the Lower Court ought not to have entertained the charge sheet and taken on file.

4. He further submitted that the allegation made against the petitioners is that they were disturbing handbills. The respondent Police without enquiry, had falsely implicated the petitioners in this case. Further, there is no independent witnesses to show that the petitioners were disturbing the handbills, violating Rules. In this case, all the five witnesses are police personnel. Hence, he requested to quash the proceedings in C.C.No.774 of 2021. In support of his contention, he relied upon the order of this Court, dated 21.02.2020 in CrI.O.P.(MD).No.1972 of 2020 (V.K.Gurusamy vs. The Special Sub-Inspector of Police). The relevant portion of the said judgment in para No.9, which reads as follows:

"9. There is no special provision barring the applicability of Section 468 of Cr.P.C., to the Tamil Nadu Open Places of Prevention of Disfigurement Act, 1959. As per Section 468 (2) (b) of Cr.P.C., the final report ought to have been filed within one year. In this case, it has not been filed till date. The First Information Report itself has not been sent to Court."

and CrI.O.P.No.3019 of 2021 (Murugan Vs. The State rep.by the Inspector of Police and another). The relevant portion of the said judgment in para No.4, which reads as follows:

"4. In the considered view of this Court, except for the allegations found in the complaint, there are absolutely no materials to substantiate the charge against the petitioner. Admittedly, the petitioner belonged to the opposition party and there was a political motive. It is a very common sight in this state, where the political parties

indulge in a fixing posters and planting flag poles during elections. Unfortunately, the petitioner has been picked and chosen and an FIR has been registered against him."

5. The learned Government Advocate (CrI.Side) submits that in this case, admittedly the case was registered on 30.03.2019 and charge sheet was filed on 16.03.2021 without filing condone delay petition.



6. Considering the submissions and perused the materials available on record, it is seen that this case is haplessly barred by Limitation. Hence, the Lower Court ought not to have taken the case on file in the absence of any condone delay petition. Further no independent witnesses were examined to show that there is any disfigurement violating the Rules. Therefore, the continuation of the proceedings in C.C.No.774 of 2021 would amount to abuse of process of law and hence, the same is quashed.

7. With the above observation, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

dna

To

1.The XVI Metropolitan Magistrate Court,
George Town, Chennai.

2.The Inspector of Police
N3, Muthalaipet Police Station
Chennai 600 001.

3.The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Mohamed Uduman, Advocate SR. No.64107

Crl.O.P.No.18774 of 2021
in
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PMK (CO)
PR (15/12/2021)