

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1203 of 2020
and
Crl.M.P.No.8356 of 2020

S.SayedHaroon,
S/o.Syed Abdul Kadher

... Petitioner

.Vs.

The State,
Represented by
The Inspector of Police,
M-7, Manali New Town Police Station,
Manali, Chennai.
(Crime No.607 of 2016)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the impugned order passed in Crl.M.P.No.2973 of 2019 dated 16.12.2019 by the Judicial Magistrate No.II, Ponneri.

For Petitioner : M/s.R.Shase
for Mr.M.Guruprasad

For Respondent : Mr.A.Madhan
Government Advocate (Crl.Side)

ORDER

The petitioner has filed this petition seeking to set aside the impugned order passed in Crl.M.P.No.2973 of 2019 dated 16.12.2019 by the Judicial Magistrate No.II, Ponneri.

2. A case was registered against the petitioner in Crime No.607 of 2016 for offence punishable under Sections 294(B), 323, 353 and 506(i) IPC and the date of registration of Criminal case was on 27.07.2016 and the charge sheet was filed only on

31.12.2019. It is stated in the counter that the charge sheet was laid on 31.12.2019 i.e., after two years, which means that the charge sheet was filed beyond the limitation period for which, the respondent Police has filed a petition under Section 473 Cr.P.C., to condone the delay of 281 days in filing the charge sheet for filing complaint under Section 200 Cr.P.C. The learned Magistrate allowed the petition filed to condone the delay on the ground that the accused was absconding. Challenging the said order passed by the Magistrate, the petitioner is before this Court.

3. The learned counsel for the respondent has filed the counter affidavit stating that the occurrence had taken place on 25.07.2016 and the case was registered against the petitioner in Crime NO.607 of 2016 for offence punishable under Sections 294 (b), 352, 353 and 506(i) IPC and thereafter, they filed the charge sheet only on 31.12.2019 and filed the application under Section 473 Cr.P.C. to condone the delay of 281 days in filing the charge sheet stating the reason that the accused absconded and he applied for anticipatory bail and got an order. Except this, no other reason is stated even in the affidavit before the trial Court to condone the delay.

4. It is well settled proposition of law that the charge sheet has to be filed within the limitation period and if for any valid reason, the charge sheet is not filed within time, without any prior permission of the Court, they cannot file the charge sheet. Moreover, even in the charge sheet, the very same offence has been reiterated. For this offence, the charge sheet filed by the respondent has been filed beyond the period of limitation and the reason stated in the affidavit to condone the delay is not a valid reason as contemplated under the law. Normally condoning the delay is discretionary power of the Court. However, there is limitation for filing the charge sheet and this Court cannot exercise such jurisdiction when the statute itself has fixed limitation and moreover, in the affidavit also, the respondent has not given any satisfactory reason for not filing the charge sheet within the period of limitation. The reason stated in the affidavit is that the delay was due to the fact that the petitioner was absconding and subsequently got anticipatory bail and therefore, they filed the charge sheet with the delay and that is not legally sustainable. Therefore, the learned magistrate failed to note down and also appreciate the same.

5. The grounds raised in the revision are legally sustainable and therefore, the impugned order passed in CrI.M.P.No.2973 of 2019 dated 16.12.2019 by the Judicial Magistrate No.II, Ponneri, is set aside and the charge sheet filed by the respondent is also liable to be set aside.

6. Accordingly, the Criminal Revision petition is allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
M-7, Manali New Town Police Station,
Manali, Chennai.

2. The Judicial Magistrate No.II,
Ponneri

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.286

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rr ii (27/01/2021)



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