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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14/12/2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. Nos.7986 and 10434 of 2017
a n d
M.P.Nos.5761, 6888 and 6889 of 2017

Thiagarajan ... Petitioner in both the Crl.O.Ps.

Vs

State
rep. By The Inspector of Police
Central Crime Branch
Egmore
Chennai 8.

...Respondent in both the Crl.O.Ps.

PRAYER in Crl.O.P.No.7986 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.16098 of 2005, on the file of the Chief Metropolitan Magistrate, Egmore, Chennai 8 and quash the same.

PRAYER in Crl.O.P.No.10434 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.5282 of 2005 on the file of XI Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner	...	Mr.B.Kumar Senior Counsel for Mr.S.Ramachandran
For Respondent	...	Mr.R.kishore Kumar Govt.Advocate (Crl.Side)

C O M M O N O R D E R

Criminal Original Petition No.7986 of 2017 has been filed to quash C.C.No.16098 of 2005, pending on the file of the Chief Metropolitan Magistrate, Egmore, Chennai 8.

2. Criminal Original Petition No.10434 of 2017 has been filed to quash C.C.No.5282 of 2005, pending on the file of XI Metropolitan Magistrate, Saidapet, Chennai.



3. The crux of the prosecution case is that the first accused is the Producer of the film "JAI", who obtained censorship certificate by screening the film before the Board for its approval, for public exhibition and after obtaining 'U' certificate for exhibition by his declaration certificate distributed the film without deleting.

4. Heard Mr.B.Kumar, learned Senior Counsel for the petitioner and Mr.R.Kishore Kumar, learned Government Advocate (Criminal Side) for the respondent.

5. The learned Senior Counsel appearing for the petitioner vehemently submitted that one of the complainants is not a member of the Central Board of Film Certification, who approve the exhibition of films for public view. The certificate issued is valid for one year. At the time of issuing the certificate, Form 9 Declaration was given by the petitioner and that itself indicate that only after removing certain objectionable portion in the film, positive prints will be released. Hence, the question of the Producer retaining the deleted portions does not arise. Now the prosecution has been launched as if without deleting the objectionable portion, the film has been exhibited. It is his further contention that if the owner of the theater has inserted any interpolation, the Producer cannot be held liable for the same and therefore, he cannot be prosecuted.

6. The learned Senior Counsel further submitted that offence took place in the year 2004, almost 17 years have been lapsed and it is not possible at this stage to establish that there was some interpolation in the exhibition. Therefore, entire prosecution has to be quashed.

7. Rule 22 of the Cinematograph Act, 1952, reads as follows:-

"On receipt of an application under Rule 21, the Regional Officer shall appoint an Examining Committee to examine the film. The examination shall be made at the cost of the applicant on such date, at such place and at such time as the Regional Officer may determine."

8. Though much emphasis was made on the basis of the competency of the complaint, it is relevant to note that anyone can set the law in motion, as far as criminal case is concerned. Materials available on record clearly indicate that immediately after the seizure of the film, the same was sent to the learned Magistrate, thereafter, it was sent to the Central Board of Censors. When the materials available on record prima facie



indicate that there are materials to proceed against the accused, entire prosecution cannot be quashed. Delay had occurred only due to non appearance of the accused one by one before the trial Court.

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9. Taking into consideration of the fact that non appearance of the accused before the trial Court has to be taken into consideration only at the time of trial. Therefore, merely on the basis of such delay, the entire prosecution cannot be quashed.

10. In the result, these Criminal Original Petitions are dismissed. It is well open to the petitioner to raise all his defence before the trial Court.

11. At this stage, learned Senior Counsel seeks indulgence of this Court to dispense with the personal appearance of the petitioner. However, taking note of the age of the petitioner, personal appearance of the petitioner is dispensed with, except for answering the charges, receiving copies, 313 questioning or some other date specifically fixed by the trial Court. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mvs.

To

1.The Chief Metropolitan Magistrate, Egmore, Chennai 8

2.XI Metropolitan Magistrate, Saidapet, Chennai

3. The Inspector of Police,
Central Crime Branch, Egmore, Chennai.

4.The Public Prosecutor, High Court, Madras.

+1cc to Mr.S. Sathish Chandrasekar, Advocate, S.R.No.66956

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RLD(CO)
CT 05/01/2022