IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No.13810 of 2017
and Crl MP Nos.8870 & 8871 of 2017

M.Sudhir Moni ... Petitioner/Accused

vs.

State Rep. By
Inspector of Police,
Central Crime Branch, Team-IX,
Job Racket, Vepery,
Chennai 600 007. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.2038 of 2017 on the file of XI Metropolitan Magistrate, Saidapet, Chennai arising out of Crime No.73 of 2009 on the file of the Respondent Police, Central Crime Branch, Team - IX, Job Racket Division, Vepery, Chennai and to quash the Final Report dated 08.04.2017 filed by the respondent Police.

For Petitioner : Mr.Krishna Ravindran for
Mr.Kaushik N.Sharma

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Petition has been filed seeking to quash the proceedings in CC No. 2038 of 2017 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai.

2. The case of the prosecution is that the petitioner was illegally inviting various persons by calling for an interview and promising them that he will secure jobs in the United States of America, without obtaining proper license or registration from the concerned authorities. The FIR was registered in the year 2009 for an offence under Section 24 of the Emigration Act ,1983.

3. The investigation officer thereafter proceeded to record the statements of the witnesses under Section 161 of the Code of Criminal Procedure and the Final Report was laid before the Court below and the Court below took cognizance of the same in CC No.2038 of 2017 for an offence under Section 420 of IPC and Section 10 and 24 of the Emigration Act read with Section 511 of IPC.

4. Heard Mr.Kaushik N.Sharma, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

5. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.

6. The main ground that was urged before this Court was that the FIR was registered in the year 2009 for an offence under Section 24 of the Emigration Act. This offence is punishable for a maximum imprisonment of two years. However, the Final Report itself came to be filed only in the year 2017. Since taking cognizance was barred by limitation under Section 468 of the Code of Criminal Procedure, the respondent Police had intentionally added Section 420 of IPC in order to give an impression that the Final Report is not barred by limitation.

7. The statements collected from the witnesses were also brought to the notice of this Court and there is not a single witness who has spoken about collection of any money from them by the accused person. Therefore, according to the petitioner, there was neither a wrongful gain to the petitioner nor was there a wrongful loss suffered by the witnesses, who are alleged to have been invited for the interview. This Court on carefully going through the statements recorded from the witnesses also found that there was no money transaction involved with any of the witnesses and therefore the charge under Section 420 of IPC is totally unsustainable.

8. The only other charge that remains against the petitioner is under Section 10 and Section 24 of the Emigration Act. This charge is attempted to be sustained on the ground that the petitioner had invited applications and interviewed candidates by promising them to secure jobs in United States of America and this was done by the petitioner without a valid license.

9. Even if the allegation made in the Final Report is taken to be true, the Final Report ought to have been filed within a period of three years as per Section 468 (2) (c) of the Code of Criminal Procedure. This provision makes it clear that no Court

shall take cognizance of an offence after the expiry of three years, if the offence is punishable with imprisonment for a term exceeding one year, but not exceeding three years.

10. In the present case, it is very clear that the respondent Police after realising that they will not be able to file a Final Report, since it was much beyond the period of limitation, had chosen to add Section 420 IPC to the Final Report and justify the delay. This method adopted by the respondent Police was to clearly circumvent the bar created under Section 468 of the Code of Criminal Procedure. Considering the fact that the FIR was registered in the year 2009 and the Final Report was filed in 2017 and also considering the fact that a long time has lapsed since the alleged incident had taken place, there is no compelling reason to extend the period of limitation under Section 473 of the Code of Criminal Procedure. The continuation of the proceedings against the petitioner at this length of time will only be an abuse of process of Court.

11. In the result, the proceedings in CC No. 2038 of 2017 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed, and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jv

To

1. The XI Metropolitan Magistrate,
Saidapet, Chennai.

2. The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

3. The Inspector of Police,
Central Crime Branch, Team-IX,
Job Racket, Vepery,
Chennai 600 007.

4. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.Krishna Ravindran, Advocate Sr.13246

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srg 08/04/2021