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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CrI.O.P. No.24633 of 2017
and
CrI. M.P. No.14251 of 2017

P.K. Manoj

...Petitioner/Accused

Vs.

The Inspector of Police,
Kullakamby Police Station,
Kullakamby - 643 218.
(Crime No.72 of 2015)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records connected in Crime No.72 of 2015 pending on the file of the respondent police and quash the same.

For Petitioner	:	Mr.S.Ramachandran
For Respondent	:	Mr.E. Raj Thilak (Counsel for Govt. (CrI. Side))

O R D E R

This Criminal Original petition has been filed under Section 482 Cr.P.C. seeking for to call for the records connected in Crime No.72 of 2015 pending on the file of the respondent police and quash the same.

2. The learned counsel for the petitioner would submit that this Court by its order dated 25.09.2019 in CrI. O.P. No.24632 of 2017 quashed the FIR in Crime No.72 of 2015 registered against the petitioners therein. In the aforesaid case, this Court observed as under:

"All the petitioners herein have been arrayed as accused in Crime No.72 of 2015 for alleged offences under Sections 188, 430 and 431 IPC r/w Section 3 of TNPPDL Act, 1988.



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2. Insofar as the offence under Section 188 IPC is concerned, the law with regard to the procedure to be adopted for an offence under Section 188 IPC has been well settled through a catena of judgments. As a matter of fact, the very procedure contemplated under Section 195 Cr.P.C., is patently clear to the effect that a police officer cannot take cognizance of an offence falling within Sections 172 to 188 IPC and the procedure for such prosecution is contemplated only under Section 195 Cr.P.C. Consequently, the jurisdictional Court is also deprived of taking cognizance of an offence under Section 188 IPC based on a police report filed under Section 173 (2) Cr.P.C. Such an offence can be only by way of a complaint by the concerned public servant as contemplated under Section 195 Cr.P.C.

3. Insofar as the other offences for which the petitioners are implicated are concerned, it is seen that the offences came to be registered against the petitioners herein on 31.07.2015 and are still pending investigation without much progress.

4. The Hon'ble Apex Court in the decision of Abdul Rehman Antulay and others vs. R.S.Nayak and another reported in (1992) 1 SCC 225 has held that right to speedy trial flowing from Article 21 encompasses all the stages namely, the stage of investigation, inquiry, trial, appeal, revision, and retrial.

5. In view of the fact that the respondent police is not empowered to proceed with the investigation for offence under Section 188 IPC and on the well laid down ratio that the investigation in FIR No.72 of 2015 has been pending for more than four years without any effective progress, thereby amounting to denial of a fair and speedy trial, this Court is of the view that the petitioner is entitled to succeed.

6. In the light of the above observations, records in Crime No.72 of 2015 on the file of the respondent police stands quashed. This Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petition is closed."

3. In view of the above, the Crime No.72 of 2018 registered against the petitioner herein is quashed.



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4. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed if any.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The Inspector of Police,
Kullakamby Police Station,
Kullakamby - 643 218.
2. The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P. No.24633 of 2017
and
Crl. M.P. No.14251 of 2017

AK(CO)
LS(09/09/2021)