



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.04.2021

DELIVERED ON : 21.05.2021

WEB COPY

CORAM:
THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.6165 of 2021

CRL.M.P. (MD) .No.3540 of 2021

G.Mahalakshmi

... Petitioner

Vs.

1.The State rep.by
The Inspector of Police,
S.S.Colony Police Station,
Madurai City.
Crime No.931 of 2017.

2.D.Kavitha,
Inspector of Police,
Anti Land Grabbing Special Cell,
Madurai City.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in Crime No.931 of 2017 on the file of the Inspector of Police, S.S.Colony Police Station, Madurai City and quash the same in respect of the petitioner herein.

For Petitioner	: Mr.S.Balaji
For Respondents	: Mr.R.Srinivasan Government Advocate(crl.side)

O R D E R

This petition has been filed seeking quashment of the first Information Report pending on the file of the first respondent herein.

2. The case of the second respondent is that on 14.08.2017, the second respondent and the police party had gone to the house of the petitioner for arresting the father and the brother of the petitioner in connection with the case in Crime No.53 of 2017 which



was pending before the second respondent. At that time, the petitioner and the other accused persons made hindrance to the Police party not to arrest the father and brother of the petitioner and abused them in filthy language, threatened them with dire consequences. Later, they have arrested the father and brother of the petitioner and they were remanded to police custody. On the basis of the occurrence, a complaint was given by the second respondent herein to the first respondent police on 15.08.2017. Based on which, a case in Crime No.931 of 2017 was registered and the case was taken up for investigation, which is now pending before the first respondent. Thereafter, the present petition has been filed by the petitioner, who is the third accused, mainly on the ground that the alleged occurrence took place on 14.08.2017 and the case was registered on 15.08.2017 for the offence punishable under Sections 294(b), 353, 506(1) IPC. The maximum punishment prescribed under Section 353 and 506(i) IPC is only two years. Therefore, as per Section 468(2)(c), the Court cannot take cognizance upon the offence, since it was barred by limitation. No specific overt act has been made against the petitioner in the First Information Report. In fact, a complaint was made by the father of the petitioner on 05.07.2017 against the second respondent, since the police demanded money from the father of the petitioner and threatened him. In this regard, a writ petition was also filed by the father of the petitioner in W.P.(MD).No.16958 of 2017 against the police party. To wreck vengeance only, the complaint has been given by the second respondent.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

4. From the records, it is seen that the trouble arose when the police party visited the house of the petitioner to arrest the father and brother of the petitioner in connection with the case in Crime No.53 of 2017 which was pending against them on the file of the second respondent herein. In fact, they were facing charges under Sections 120(b), 465, 468, 419, 471, 406, 420 IPC in Crime No.53 of 2017. Only for this case, the police team visited the house of the petitioner to arrest the father and brother of the petitioner. During that time, the alleged occurrence took place.

5. On reading of the First Information Report, it is seen that one Mayandi was granted Anticipatory Bail by this Court. After some time, the Anticipatory Bail granted by this Court was cancelled. Therefore, the Police team gone to the petitioner's house to arrest the father of the petitioner. During that time, the petitioner and the other accused persons tried to prevent the police party from making arrest and the mother of the petitioner tried to self-immolate herself by pouring Kerosene on her body and that was prevented by the Police team. The petitioner and the other accused persons abused the police team in filthy language and also



threatened them with dire consequences.

6. Serious allegations have been levelled against this petitioner and others for threatening the police team and preventing them from discharging their duty. However, the offence is of the year 2017. Till date, it appears that no progress has been made by the Investigation Officer to complete the investigation and file a report before the Court. Since the bar of limitation has been raised as a ground by the petitioner, it has to be properly taken into account. Before the alleged date of occurrence, it appears that Gandhi and his son namely Mayandi sent a complaint to the Commissioner of Police, Madurai making some allegations against one Anandan, Ganesan and Valavan. On the basis of the complaint, whether any enquiry was conducted by the Commissioner or not is not clear on record and no document is available. But the fact remains that the father of the petitioner namely Gandhi was later arrested for the alleged offence.

7. Regarding the bar of limitation, the learned counsel appearing for the petitioner has referred the judgment of the Hon'ble Supreme Court of India in the case of **Sanapareddy Maheedhar and Another vs. State of Andhra Pradesh and Another**, in which, the Hon'ble Supreme Court has held that " the object of introducing Section 468 was to put a bar of limitation on prosecutions and to prevent the parties from filing cases after a long time, as it was thought proper that after a long lapse of time, launching of prosecution may be vexatious, because by that time even the evidence may disappear". In the above case, on the basis of Section 468 of Cr.P.C, the Hon'ble Supreme Court has quashed the First Information Report. Further, it has been stated that on the basis of bar of limitation, it may not be proper to nullify the prosecution at the threshold. But the Hon'ble Supreme Court has added that this will only apply to the matrimonial matters. Therefore, it is left open to the prosecution to make proper application before the concerned jurisdictional Magistrate Court either to condone the delay or to explain the reason for delay. Further, the Hon'ble Supreme Court held that the prosecution is at liberty to invoke Section 5 of the Limitation Act as well as Section 473 of Cr.P.C. But, in this case, the prosecution has not come out with clear explanation for the delay and did not attempt to make use of relief as per Section 5 of the Act. Therefore, I am of the considered view that the proceedings are liable to be quashed on the ground of bar of limitation and the First Information Report pending on the file of the first respondent herein in Crime No.913 of 2017 stands quashed.



8. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The State rep.by
The Inspector of Police,
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Crime No.931 of 2017.
- 2.D.Kavitha,
Inspector of Police,
Anti Land Grabbing Special Cell,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order in
Crl.O.P. (MD)No.6165 of 2021
CRL.M.P. (MD) .No.3540 of 2021
21.05.2021

AS (10.06.2021) 3P 4C