



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON : 20.07.2021

PRONOUNCED ON : 13.09.2021

WEB COPY

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.7530 of 2021 and  
Crl.MP(MD) No.3862 of 2021

P.Karumaran ... Petitioner/Accused 2

Vs.

1.The State rep by  
Inspector of Police,  
Railway Police Station,  
Madurai District.  
(Cr.No.279 of 2013)

...Respondent No.1

2.V.Gunasekaran

...Respondent No.2/  
Defacto Complainant

**Prayer :** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in Crime No.279 of 2013 on the file of the Railway Police Station, Madurai District and quash the same against the petitioner.

For Petitioner : Mr.R.Senthilkumar

For R1 : Mr.R.M.Anbunithi,  
Additional Public Prosecutor

**ORDER**

This petition is filed seeking quashment of Crime No.279 of 2013 pending on the file of the Railway Police Station, Madurai.

2.The case of the prosecution in brief:

The second respondent who is the defacto complainant has lodged a complaint stating that the first accused is the father of the second accused. The second accused is the petitioner herein. The first accused made false representation that his father died and obtained privilege pass for his son, namely, Karumaran, who is the petitioner herein to travel in first class train. On verification,



it was found that on the date of issuance of the pass, the father of the accused was very well alive. By fraudulent misrepresentation made by the second accused, the Railway Department incurred huge loss. The third accused being the Station Master did not give proper complaint. So the defacto complainant gave a petition before the competent authority to lodge a complaint that was not considered. So he approached this Court under Section 482 of Cr.P.C in Crl.OP(MD) No.4989 of 2013. By order dated 29.04.2013, a direction was issued, based on which, a case in Crime No.279 of 2013 for the offences punishable under Sections 177 and 420 IPC was registered against the accused persons.

3. Seeking quashment of the First Information Report, this petition is filed mainly on the ground that the co-accused namely A1, A3, and A4 filed Crl.O.P(MD) Nos.949 of 2019, 3782 of 2014 and 3783 of 2014 were allowed on 07.09.2018. Insofar as those persons are concerned, the First Information Report was quashed.

4. Now, the second accused has preferred this petition on the ground that during the departmental enquiry, the first accused was awarded punishment. After 23 years of occurrence, the complaint was filed by the second respondent. Delay in lodging the complaint was also not explained. This petitioner did not enjoy any wrongful gain. There was no wrongful loss to the Department also. So, the offences under Sections 177 & 420 IPC are not made out against this petitioner, since he was minor at that time of occurrence and did not enjoy the free pass also.

5. Since the co-accused have preferred the above said criminal original petitions and all the petitioners and the second respondent also appeared through Advocate and made their submissions. So, in this petition, notice to second respondent was dispensed with. In the above said criminal original petitions, it has been observed that the main allegation against the first accused is that he has said to have made fraudulent misrepresentation before the department officials and obtained free pass to this petitioner, who is said to be a minor at that time. During the disciplinary enquiry, punishment was awarded to the first accused. It was also came to the light that the departmental action was concluded in 1997. During that time, the complaint given by the second respondent was rejected. Suppressing that fact, he filed Crl.OP(MD) No.4983 of 2013 and obtained direction, based upon which, a case has been registered. So this fact was noticed by this Court and came to a conclusion that there was inordinate delay on the part of the second respondent in making the complaint. 23 years lapsed from the date of alleged fraudulent misrepresentation and cheating. Even in case of the first accused, First Information Report was quashed on the ground that there was inordinate delay of 23 years, by relying upon the Honourable Supreme Court reported in **(2010) 8 Supreme Court Cases 775-Kishan Singh Vs. Gurpal Singh**, wherein it is observed that



whenever a delay is noticed in lodging the First Information Report, the Court must look into the explanation. If there is no proper explanation, it may be construed as fatal. So noting the fact that there was absolutely no bonafide on the part of the second respondent in making such a complaint after inordinate delay of 23 years, that petition came to be allowed. So the observation and findings made by this Court in the above said criminal original petitions squarely applicable to this petitioner also.

6.More over, in the celebrating judgment of the Honourable Supreme Court in **State of Haryana and others vas. Ch.Bhajan Lal and others**, wherein it was held that whenever there is an inordinate delay in lodging the First Information Report, criminal proceedings can be quashed. So, I am of the considered view that the benefit that has been granted to the first accused in equal force can be applied to this petitioner also. More over, the First Information Report has been registered in 2013. Now, we are in 2021. Even though 8 years lapsed, there is no improvement in the investigation. Already complaint was registered 23 years late. Totally 31 years lapsed. Absolutely, this criminal proceedings amounts to abuse process of law. In view of the above, the First Information Report is liable to be quashed and accordingly quashed.

7.With the above observations, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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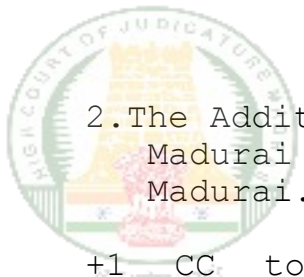
Sub Assistant Registrar(CS)

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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 Inspector of Police,  
Railway Police Station,  
Madurai District.



2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.R.SNETHIL KUMAR, Advocate ( SR-23572[F] dated  
22/07/2021 )

+1 CC to M/s.R.SENTHIL KUMAR, Advocate ( SR-29048[F] dated  
14/09/2021 )

**Crl.O.P.(MD)No.7530 of 2021 and**  
**Crl.MP(MD) No.3862 of 2021**  
**13.09.2021**

RD(27.09.2021) 4P 5C