



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 23.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.9589 of 2021

and

Crl.MP(MD)Nos.4904 & 4905 of 2021

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1.S.Subash ... Petitioners/Sole Accused
Vs.

1.The State Rep by
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
(Crime No.638 of 2016) ... 1st Respondent/Complainant

2.Manoharan ... 2nd Respondents/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records and quash the proceedings of the Charge Sheet in C.C.No.255 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai.

For Petitioner : Mr.Karuppasamy Pandian
for Mr.Tamil Amuthan
For R1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor
For R2 : Mr.A.Jeyaramachandran

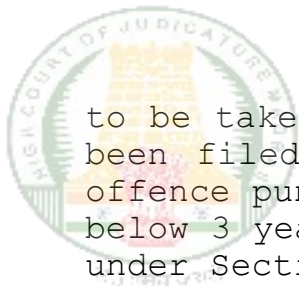
ORDER

This Criminal Original Petition is filed to quash the proceedings of the Charge Sheet in C.C.No.255 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai.

2. The case of the prosecution in brief:-

The defacto complainant namely, Manoharan and the petitioner, who is the accused are close relatives. In respect of the property dispute, enmity exist between them. On 01.12.2016, at about 10.30 a.m, when the defacto complainant was standing in front of his house, the accused herein came to the place and criminally intimidated him by causing assault on the lower jaw region of the defacto complainant and also the right ear region. So, the petitioner has committed the offence punishable under Sections 323 and 506 (i) IPC. Based upon the complaint given by the second respondent herein, investigation has been undertaken. Materials were collected and after completing the investigation, final report was filed before the learned Judicial Magistrate-VI, Madurai, which has been taken on file in C.C.No.255 of 2021.

3. Seeking quashment of the same, this petition came to be filed mainly on the ground that the date of the occurrence is said



to be taken place on 01.12.2016. But, whereas, the final report has been filed before the concerned Court only on 24.03.2021. So, the offence punishable under Sections 323 and 506 (i) IPC are punishable below 3 years. So, the cognizance taken by the Trial Court is barred under Section 468 Cr.P.C.

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4. Even though, the second respondent is appeared through counsel, the legal issue that has been raised by the petitioner was not properly replied. There is no evidence on record to show that the first respondent herein before filing the final report before the concerned Court file an application under Section 473 Cr.P.C, seeking extension of time to file final report. So, in the absence of any such steps on the part of the first respondent, barred under Section 468 Cr.P.C, cannot be saved.

5. The learned counsel for the petitioner would rely upon the judgment of the Hon'ble Supreme Court reported in **Mrs.Sarah Methew Vs. The Institute of Cardio Vascular Diseases by its Director Dr.K.M.Chерian & Others in Crl.A.No.829 of 2005**. Wherein, the question which arose before the Hon'ble Supreme Court is whether for the purpose of computing the period of limitation under Section 468 Cr.P.C, the relevant date is the date of filing of the complaint or the date of institution of prosecution or the date of cognizance of the offence. So, after going through the entire provision of law as well as proceedings, the Hon'ble Supreme Court, came to the conclusion that the relevant date of the limitation under Section 468 Cr.P.C is the date, which it has been presented before the concerned Court and not the date, which has been taken cognizance.

6. So, in the light of the above said discussion, as mentioned earlier, it has been presented before the concerned Court, only on 24th March 2021. Even though, it has been prepared on 02.07.2017, it was not presented before the concerned Court within the above said time, is clearly barred by limitation and so, the cognizance taken by the Trial Court is illegal and the entire prosecution is liable to be quashed.

7. Accordingly, the Charge Sheet in C.C.No.255 of 2021 on the file of the learned Judicial Magistrate No.VI, Madurai, is hereby, quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

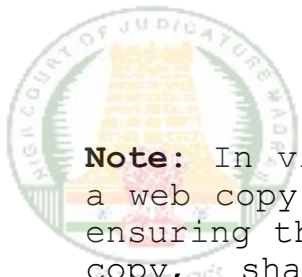
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Sub Assistant Registrar(CS)

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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.

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To

- 1.The Judicial Magistrate No.VI,
Madurai.
2. The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.9589 of 2021
and
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VR (CO)
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