



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	19.08.2021
Date of Order	26.10.2021

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.11877 of 2021
and
Crl.MP(MD)No.6068 of 2021

Ilango : Petitioner/Sole Accused

Vs.

1.The State represented by its
The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
(Crime No.342 of 2020)

: 1st Respondent/Complainant

2.Durai Raj
S/o.Rajendran,
Superintendent,
DPO Store,
Ramanathapuram.

: 2nd Respondent/De-facto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the entire records in relating to FIR in Crime No.342 of 2020 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondent 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This petition has been filed by the petitioner seeking quashment of the case in Crime No.342 of 2020 on the file of the 1st respondent.

2.The case of the prosecution is that on 06.05.2020 at about 10.30 hours, when the de-facto complainant was attending his duty, one Assistant by name Ilango along with the Office Assistant by name Devi handed over a file. He informed that it is to be dealt by E3 section. So the de-facto complainant told the petitioner that it is his duty to attend the file. On hearing this, the petitioner abused



him in filthy language and criminally intimidated. When this was questioned, again he abused him in filthy language. So the defacto complainant asked the accused to get out from the room. At that time, the accused assaulted him and also caused severe injury on his cheek and neck etc. So, based upon the complaint given by the defacto complainant, a case in Crime No.342 of 2020 was registered for the offence under sections 294(b) and 323 IPC.

3.Challenging the registration of the above said criminal case, this petition came to be filed mainly on the ground that the date of the alleged occurrence stated to be on 06.05.2020, but even after a lapse of one year, the investigation has not been completed and final report has also not been filed before the concerned court, which is barred by limitation under section 468 of Cr.P.C.

4.The learned Additional Public Prosecutor would submit that based on the complaint given by the 2nd respondent herein, investigation was undertaken and final report was also made ready on 19.05.2021 itself, but it has not been presented before the concerned court and the copy of the final report is also submitted. Even though the investigation has been completed and the final report was also made ready on 19.05.2021, it has not been presented before the concerned court.

5.Section 294(b) IPC reads as under:-

"sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both.

6.Similarly 323 IPC reads as under:-

"323.Punishment for voluntarily causing hurt.-
Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

7.Both the offences are to be punishable below one year. There is evidence on record to show that the Investigation Officer has filed petition before the concerned court seeking extension of time under section 473 Cr.P.C for filing the final report. In the absence of any sufficient material on the part of the Investigation Officer, it is clearly barred by limitation. So the cognizance cannot be taken by the concerned Magistrate Court. Since it is a matter of limitation, no notice was ordered to the 2nd respondent.

8.For the above reasons stated above, this court is of the considered view that the FIR in Crime No. 342 of 2020 pending on the file of the 1st respondent is hereby quashed as against the petitioner.



9. In fine, this Criminal Original Petition is **allowed**. The FIR in Crime No.342 of 2020 pending on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (As)

// True Copy //

/ /2021

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,
Kenikkarai Police Station,
Ramanathapuram District.

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-32889[F] dated
27/10/2021)

Cr1.OP(MD)No.11877 of 2021
26.10.2021

RD/NS (24.11.2021) 3P 4C