



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 29.07.2021

DELIVERED ON: 03.09.2021

CORAM

The Hon'ble Mr. Justice G.ILANGOVAN

Crl.O.P. (MD) .No.19288 of 2018 and

Crl.M.P. (MD) .No.8679 of 2018

R.Paul Raj

... Petitioner/Sole Accused

Vs.

1.The State Rep by

The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli City.

(Crime No.386 of 2017)

... Respondent/Complainant

2.Janttuss Babuni

... Respondent / Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in Crime No.386 of 2017 on the file of the Inspector of Police, Thatchanallur Police Station, Tirunelveli City, and quash the same as against the petitioner.

For Petitioner : Mr.R.Anand

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor

ORDER

This petition is filed seeking to quash the case in Crime No.386 of 2017, on the file of the Inspector of Police, Thatchanallur Police Station, Tirunelveli City.

2.The case of the prosecution in brief:-

The second respondent is the defacto complainant in this case. *Suo-motu* registration of the First Information Report, has been made against one Paul Raj, who is the complainant in Crime No.340 of 2019, has given a complaint to the effect that he is running a Wind Mill Company called "APS Wind Mill Company, Aralvaimozhi,



Tirunelveli. On 14.07.2017, at about 08.15 p.m, for the purpose of developing the above said Company, he carried three crores of Indian money, which was demonetized by the Government, along with his friends namely, Pilton, Jeyapaul, Sundar, Amarnath, Deva Pitchai, Samselvanayagam, Peter Syamkumar in a Car bearing Registration No.TN-74-AH-7071. When it was coming at Tamiraparani Engineering College, six persons, who came in three two wheelers, way-laid them and caused damage to the Car and robbed three crores, and they also sprayed chilly powder on them. On the basis of the complaint, a case was registered in the above said crime number and the case was placed before the first respondent for investigation. He conducted the investigation and arrested 12 accused persons. On the basis of the confession statement given by the accused, by name, Rengasamy, he recovered Rs.3 crores. Since the money involved in the matter has been demonetized by the Government, it covers the offence punishable under Section 7 of the Specified Bank Notes (Cessation of Liabilities) Act, 2017. So, based upon the complaint, a case in Crime No.386 of 2017 has been registered on 30.08.2017 and the same is pending.

3. Seeking quashment of the same, this petition is filed mainly on the ground that the cognizance barred by limitation. So, this petition is filed on 25.10.2018 and an interim order was granted by this Court, which was also periodically extended.

4. When the matter was taken up for hearing on 17.06.2021, the learned Additional Public Prosecutor has submitted that the investigation has been completed and the final report was also filed before the learned Judicial Magistrate No.IV, Tirunelveli, on 06.12.2018. As mentioned earlier, the order of stay was passed on 30.10.2018 itself. But, whatever it may be, the case was heard on merits also. Since the only ground that has been made by the petitioner is that bar of limitation under Section 468 Cr.P.C. The Government had passed the Specified Bank Notes (Cessation of Liabilities) Act, 2017, which came into force on 31st December 2016 and Section 5 of the above said Act, reads as under:-

" 5. On and from the appointed day, no person shall knowingly or voluntarily, hold, transfer or receive any specified bank note:

Provided that nothing contained in this section shall prohibit the holding of specified bank notes-

(a) by any person-

(i) up to the expiry of the grace period; or

(ii) after the expiry of the grace period,-

https://hcservices.ecourts.gov.in/hcservices/(A) not more than ten notes in total,



irrespective of the denomination; or

(B) not more than twenty-five notes for the purposes of study, research or numismatics;

(b) by the Reserve Bank or its agencies, or any other person authorised by the Reserve Bank;

(c) by nay person on the direction of a court in relating to any case pending in the court."

5. Section 7 of the Act, is the Penalty for contravention of Section 5 and the same is reads as under:-

"7. Whoever contravenes the provisions of Section 5 shall be punishable with fine which may extend to ten thousand rupees or five times the amount of the face value of the specified bank notes involved in the contravention, whichever is higher."

6. Reading of Sections 5 & 7 of the Act, conjointly will show that the punishment for the violation is prescribed as Rs.10,000/- or five times the amount of the face value of the specified bank notes involved in the contravention, whichever is higher. As per the provision, fine amount to be payable for the seized notes worth about Rs.3 crores, is Rs.15 Crores.

7. The learned counsel for the petitioner would submit that as per Section 468 Cr.P.C, which is made applicable to the present Act is also only six months period is prescribed for taking cognizance. According to him, the complaint was registered on 14.07.2017. So, the period of six months lapsed on 14th January 2018 itself. As mentioned earlier, the petition, seeking quashment, has been filed on 25.10.2018. So, even on the date of filing of this petition, cognizance has been time barred. It is unfortunate that the offence, which is of such a magnitude, has to be closed out, due bar of limitation.

8. There is no evidence on record to show that the Investigating Officer sought extension of time for filing proper application under Section 473 Cr.P.C before the concerned Court. A report has also been called for from the Judicial Magistrate No.IV, Tirunelveli, with regard to the date of presentation of final report and the date of taking cognizance of the offence. The report has been received by the concerned Court, in pursuance of a direction given above, wherein, the learned Judicial Magistrate-IV, Tirunelveli, has stated that the final report was presented on 29.06.2020 and cognizance was taken on file on 30.06.2020. From



this, it is seen that the final report was not presented in the year 2018 by the police. So, it is presented only in the year 2020, that too, when the interim order was in force.

9. Another aspect is that this Court, by order dated 30.10.2018, has observed that the offence under Section 7 of the above said Act is a non-cognizable offence, as per class II of the 1st Schedule. So, according to this Court, as per the said order, it is a non-cognizable offence. But, whether a proper permission has been obtained from the concerned Court or not, is not clear on record. But, whatever it may be, the position is very clear to the effect that the offence is really barred by limitation. So, cognizance taken by the learned Judicial Magistrate No.IV, Tirunelveli, is illegal and the same is liable to be quashed.

10. In view of the above, the proceedings in C.C.No.463 of 2020, on the file of the learned Judicial Magistrate No.IV, Tirunelveli, is hereby quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.IV,
Tirunelveli.

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli District.

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

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