



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.2774 of 2019

and

Crl.M.P.No.1801 of 2019

1.Saminathan
2.Nagarajan
3.Kanagaraj
4.Rajesh
5.Rangasamy

...Petitioners/Accused 1 to 5

Vs.

1.The State rep.by
The Inspector of Police
Sulur Police Station
Namakkal.
(Crime No.1009 of 2018)

..Respondent/Complainant

2.Kokila

...Respondents/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records in the Crime No.1009 of 2018 on the file of the first Respondent and to quash the same.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.R.Vinothraja for R1
Government Advocate (Crl.Side)

: Ms.Divya for
Mr.K.Balu for R2

ORDER

This petition has been filed to call for the records in Crime No.1009 of 2018 on the file of the first Respondent and to quash the same.



2. When the case is taken up for hearing, the learned counsel for the Petitioners submitted that a case was registered against the petitioners on 03.12.2018, and as per the First Information Report, the date of occurrence was on 08.06.2018. The learned counsel for the Petitioners submitted that under Section 468 (2) (c) of Cr.P.C., for the maximum punishment period of three years, the period of limitation is only six months from the date of occurrence. While so, the First Information Report had been registered with a delay of statutory period of six months.

3. The learned counsel for the second Respondent/Defacto complainant submitted that the First Information Report was registered based on the directions of this Court. Already the complaint preferred by the second Respondent/Defacto complainant against the Petitioner herein was not registered by the Police, hence, the Defacto complainant preferred a Criminal Original Petition seeking directions from this Court. However, on the complaint preferred by the Petitioners in this Criminal Original Petition, an FIR was registered and the charge sheet also laid against the second Respondent in this case.

4. The learned Government Advocate (Crl.Side) would submit that as per the provision of Section 473 of Cr.P.C., if the Court is satisfied with regard to the limitation, the Court can take cognizance of the charge sheet. He would further submit that based on the First Information Report, investigation is proceeded with and the charge sheet also laid before the Court, but the Court had not taken cognizance.

5. Considering the submissions of the Petitioner, the second Respondent/Defacto complainant and the learned Government Advocate (Crl.Side), it is found that the case is arising out of a case and a counter case. The Investigating Officer had not acted as per the earlier direction and settled position of law regarding the case and counter, where the second FIR had been registered, but both the FIRs have to be proceeded with the investigation. These facts have to be fairly considered by the concerned Court. It is for the concerned Court to decide, who is the accused person and who is the victim in this case.

6. In the light of the above, this Criminal Original Petition is dismissed. The learned Judicial Magistrate, Suler, Coimbatore District, is directed to take



cognizance of the charge sheet as per law without being influenced by any observation made in this case. Case and counter case have to be taken for trial as per the provisions of law. Further, the trial Court after taking cognizance of the case, shall dispose of the same within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dna
To

1.The Judicial Magistrate Court, Sulur, Coimbatore.

2.The Inspector of Police
Sulur Police Station
Namakkal.
(Crime No.1009 of 2018)

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.W.Camyles Gandhi, Advocate sr 23441
+1 CC to Mr.K.Balu,Advocate sr 23583.

Cr1.O.P.No.2774 of 2019
and
Cr1.M.P.No.1801 of 2019

SVI (CO)
SP(27/04/2022)