

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.06.2022
PRONOUNCED ON : 23.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.9443 of 2016
and Crl.M.P.Nos.4886 & 4887 of 2016

1.N.Ravichandran
2.Ramnath
3.A.Marimuthu ... Petitioners/Accused 2, 3 & 5

Vs.

1.The State of Tamilnadu
represented by the Sub Inspector of Police,
District Crime Branch,
Coimbatore District.
[Crime No.2/2002] ... 1st Respondent/Complainant

2.P.Elango
S/o.Poilon
Assistant Manager,
Tamilnadu Industrial Investment Corporation Ltd.,
Tiruppur. ... 2nd Respondent/
Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under
Section 482 of Cr.P.C., to call for the records and quash the
charge sheet in C.C.No.239 of 2007 pending on the file of the
learned Judicial Magistrate No.II, Tiruppur.

For Petitioner :Mr.S.Sithirai Anandam

For R1 :Mr.C.E.Pratap
Government Advocate (Crl.Side)

For R2 :No appearance

ORDER

This Criminal Original Petition has been filed to quash the
charge sheet in C.C.No.239 of 2007, pending on the file of the
learned Judicial Magistrate No.II, Tiruppur.

2. Brief facts of the case:

(i). On 22.04.2002, the first respondent police had registered a case against the petitioners in Crime No.2 of 2002, for the alleged offence under Sections 120(b), 406 and 109 of IPC and thereafter, on 11.04.2007, the first respondent has filed the charge sheet in C.C.No.239 of 2007 before the learned Judicial Magistrate No.II, Tiruppur, for the alleged offences committed by the petitioners.

(ii). As per the compliant, on 21.06.2000, A1/Srinivasan was sanctioned with a term loan of Rs.78 lakhs from the Tamil Nadu Industrial Investment Corporation Ltd. Out of the said amount, he had purchased Shed No.92 in THADCO Industrial Estate, Mudalipalayam and purchased a Mayer & Cie, Germany Make circular Knitting Machines, at a cost of Rs.109.56 Lakhs under the scheme of hypothecation and the said machines were installed at Shed No.92. Whiles, the A1 had committed criminal breach of trust with abutment of A2 to A5 by dishonestly removing the aforesaid circular Knitting Machines, from the shed No.92.

(iii). The first petitioner was arrayed as A2; second petitioner was arrayed as A3; one Vijayalakshmi was arrayed as A4; the third petitioner was arrayed as A5; A4 & A5 are the partners of Blue Star Apparels and Collections; A5 is the close relative of A2, A3 & A4.

3. The learned counsel for the petitioner would submit that the sentence prescribed for the alleged offence in the charge sheet are below three years. Therefore, the final report ought to have been filed within the period of three years, but the final report has been filed after three years and hence, the same is barred under Section 468 of Cr.P.C.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that as stated supra, as per the final report, the petitioners/Accused 2, 3 & 5 are charged for the offence under Section 120(b), 406 and 109 of IPC.

5. Section 468 of Cr.P.C is reproduced hereunder:

"468. Bar to taking cognizance after lapse of the period of limitation:

(1). Except as otherwise provided elsewhere in this Code, no court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2). The period of limitation shall be -

(a) Six month, if the offence is punishable with fine only;

(b) One year, if the offence is punishable with

imprisonment for a term not exceeding one year;

(c)three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years."

6.As per the said offence, the petitioners are punishable with imprisonment for a term not exceeding three years, which is clearly barred by Section 468 of Cr.P.C. The complaint has been given on 22.04.2002 and the final report has been filed on 11.04.2007, therefore after five years, the first respondent has filed a charge sheet which is clearly barred under Section 468(2) of Cr.P.C.

7.Heard the learned counsel on either side and perused the materials placed on record.

8.On perusal of the records, it is seen that the first respondent has filed the charge sheet, is against law that the bar against cognizance after lapse of prescribed period of limitation is laid down under Section 468 of Cr.P.C. The main object of the prohibitions is not only to protect the accused person from unnecessary harassment but also to seek their remedies within the statutory period fixed by the legislature, which was currently held by the Hon'ble Supreme Court reported in 1981 Crl.Law Journal Page 722 in the State of Punjab Vs. Sarwan Singh.

9.Accordingly, this Court finds that since, the charge sheet has been filed on 11.04.2007 nearly after five years of registration of FIR and the same is barred under Section 468 of Cr.P.C, I am fortified by the view expressed by the Learned Single Judge of this Court reported in CDJ 2016 MHC 2579 - N.Ravichandran & Others Vs. the State of Tamilnadu represented by the Sub-Inspector of Police, District Crime Branch, Coimbatore District & Another.

10.Accordingly, this Criminal Original Petition stands allowed and the charge sheet in C.C.No.239 of 2007, pending on the file of the learned Judicial Magistrate No.II, Tiruppur, is quashed as against the petitioners only. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

Dua

To

1.The Judicial Magistrate No.II,
Tiruppur.

2.The Sub Inspector of Police,
State of Tamilnadu,
District Crime Branch,
Coimbatore District.

3.P.Elango
Assistant Manager,
Tamilnadu Industrial Investment Corporation Ltd.,
Tiruppur.

4.Public Prosecutor,
High Court, Madras.

+1cc to M/s.Sithirai Anandan, Advocate SR.No.38725

Crl.O.P.No.9443 of 2016
and Crl.M.P.Nos.4886 & 4887 of 2016

JP-II (CO)
CB(12/07/2022)