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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.414 of 2022

Murugeswari

...Petitioner/Complainant

Vs.

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
2. The Inspector of Police,
H-8, Thiruvottiyur Police Station,
Thiruvottiyur,
Chennai - 600 019.

3. Ramkumar

...Respondents

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C to set aside the order passed in Crime No.333 of 2013 dated 10.02.2018 on the file of the learned Judicial Magistrate, Thiruvottiyur, Chennai and direct the second respondent police to file the final report before the learned Judicial Magistrate, Tiruvottiyur, Chennai.

For Petitioner : Mr.B.S.Manikandan

For Respondents

For R1 & R2 : Mr.Leonard Arul Joseph Selvam,
Government Advocate (Crl. Side)

O R D E R

This present criminal revision petition has been filed praying to set aside the order passed in Crime No.333 of 2013 dated 10.02.2018 on the file of the learned Judicial Magistrate, Thiruvottiyur, Chennai and direct the second respondent police to file the final report before the learned Judicial Magistrate, Tiruvottiyur, Chennai.



2. The case of the petitioner is that on 19.12.2012, during the course of employment under the third respondent, while unloading the goods, suddenly the consignments fell down on the deceased S.Selvaraj and resulted in causing an internal injury on his neck. Immediately, he was admitted in the Government Stanley Hospital and took treatment till 19.01.2013. When his condition becomes deteriorated, thereafter on 24.02.2013, he was shifted to Rasi Hospital, No.573, T.H. Road, Chennai and admitted there for advance treatment and took treatment till 27.02.2013, battled for life in the hospital and died on 27.02.2013.

3. In the mean while, the petitioner, who is the wife of the deceased, lodged a complaint before the second respondent police and on receipt of the said complaint, the second respondent registered a case in Crime No.333 of 2013 dated 07.03.2013 as against the third respondent for the offence under Section 304(A) of IPC. Later, due to the non filing of charge sheet, the learned Judicial Magistrate, Thiruvottiyur, by an order dated 10.02.2018, closed the First Information Report, under Section 468 of Cr.P.C., as the same is barred by limitation. Challenging the same the petitioner is before this Court.

4. Heard Mr.B.S.Manikandan, learned counsel appearing for the petitioner and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl.Side) appearing for the respondents 1 & 2.

5. Admittedly, the present First Information Report in Crime No.333 of 2013 has been registered on 07.03.2013 for the offences punishable under Section 304(A) of IPC. We are all aware, the offence under Section 304(A) of IPC provided punishment with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

6. Therefore, under Section 468 of Cr.P.C., the respondent police is having an obligation to file final report within a period of three years. In this regard, Section 468 of Cr.P.C., reads as follows :-

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



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(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 months, 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.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."

The said Section is clearly ambiguous that no Court shall take cognizance, if the final report has not been filed within a stipulated period.

7. Hear it is a case, the learned Magistrate has passed an order on 10.02.2018, after the period of five years from the date of registration of the case. In fact, under Section 469(1) of Cr.P.C., the period of limitation will be started from the date of offence, or from the date on which the same comes to the knowledge of the particular aggrieved party or to the Police officer whichever is earlier.

8. More than that, the averments found in the complaint given by the revision petitioner before the Police did not disclose a bigger offence. Further, the offence committed by the proposed accused is not a continuing offence. In the judgment reported in AIR 1988 SC in the case of Srinivas Pal Vs. Union Territory of Andhra Pradesh, which was held that the trial which was taken cognizance after a long gap shall stand vitiated.



9. Therefore in all, this Court finds that the order passed by the learned Judicial Magistrate is not perverse. Accordingly, this Criminal Revision Petition stands dismissed.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rts

To

1. The Judicial Magistrate,
Thiruvottiyur.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
3. The Inspector of Police,
H-8, Thiruvottiyur Police Station,
Thiruvottiyur,
Chennai - 600 019.
4. The Public Prosecutor,
High Court of Madras.

+ CC to Mr.B.S.Manikandan, Advocate sr 23910.

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NR(CO)
SP(21/04/2022)