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Crl.O.P No.5638 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.5638 of 2021

and

Crl.M.P No.3627 of 2021

Tenzin Norbu

... Petitioner

Vs.

1.State Rep. by
The Inspector of Police,
Neelankarai Police Station
Adyar,
Chennai

2.Tamilanban

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to Crime No.673 of 2019 on the file of the 1st respondent Police and quash the same.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor



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Crl.O.P No.5638 of 2019

ORDER

This Criminal Original Petition has been filed, seeking to call for the records pertaining to Crime No.673 of 2019 pending on the file of the 1st respondent Police and quash the same as illegal.

2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the 1st respondent.

3. The case of the prosecution is that the petitioner along with 7 others were protesting at Anthonyar Church Curve, ECR Road, Palavakkam, against the visit of the Chinese President and raising slogans and they also caused threat to the general public and transport; despite warned, they continued to be there; on the above allegations, a case has been registered against the petitioner for the offences under Sections 75 of Tamil Nadu City Police Act read with Section 7(1) (a) of Criminal Law Amendment Act, 1932.



4. The learned counsel for the petitioner submitted that the petitioner has not involved in any other occurrence and he was just staying at his flat with his friends; the case has been foisted against him with false allegations; Section 75 of Tamil Nadu City Police Act prescribes maximum punishment of six months imprisonment; Section 7(1) (a) of Criminal Law Amendment Act, 1932 prescribes maximum punishment of six months imprisonment.; though the FIR has been registered as early as on 07.10.2019, so far charge sheet has not been filed; hence, this case is clearly barred by limitation as prescribed under Section 468 of Cr.P.C.

5. It is seen that for the offence under Section 75 of Tamil Nadu City Police Act, the maximum punishment is for a period of six months imprisonment. For the offence under Section 7(1)(a) of Criminal Law Amendment Act, 1932, the maximum punishment is for a period of six months imprisonment or with fine. Section 468 Cr.P.C speaks about the limitation for filing the charge sheet for the offences punishable for the period upto three years in the following manner:



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 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.*

6. In view of the same, the maximum period available for the 1st respondent police is to complete the investigation for the offences under the above penal provisions would be one year only. Since the 1st respondent police had failed to complete the investigation and file a final report within a period of three years from the date of offence, the case itself is barred by limitation. In view of the above stated reasons, I feel it is appropriate to invoke the powers of this Court under Section 482 of Cr.P.C to quash the FIR.



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7. In the result, this Criminal Original Petition stands allowed and the FIR in Crime No.673 of 2019 on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

28.09.2022
(1/2)

Index : Yes/No
Speaking Order : Yes / No

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To

1. The Inspector of Police,
Neelankarai Police Station
Adyar,
Chennai

2. The Public Prosecutor
High Court of Madras.



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R.N.MANJULA, J.,

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