



CrI.O.P.No.7301 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

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THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.7301 of 2019

and

CrI.M.P.No.4017 of 2019

Santhakumar

... Petitioner

-Vs.-

1.State rep by
The Inspector of Police,
Central Crime Branch,
EDF Cell, Team IV,
Egmore, Presently at Vepery,
Chennai 7

2.V.Nagarajan

.. Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the case pending trial in C.C.No.7514 of 2006 on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai and quash the same.



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For Petitioner :Mr.A.Natarajan, Senior Counsel,
for Mr.C.P.Palanichamy

For Respondent :Mr.N.S.Suganthan,
Government Advocate (Criminal side)
for R1
R2 – Service Awaited

ORDER

This Criminal Original Petition has been filed by the second accused, who is the partner of the first accused/Firm by name Sri Murugan General Stores and Hardware.

2. The impugned complaint has been filed against this petitioner and others, for the offences under Sections 405, 406, 415, 417, 420, 425, 426, 463, 464, 465, 468 and 470 of IPC, jeremiad from the private complaint given by M/s.First Leasing Company of India Limited, through its Manager. The allegations found in the private complaint, is that the first accused/partnership Firm represented by the second accused, who is the petitioner herein, had availed loan for purchase of



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440 spindles of ring frame and a sum of Rs.4,00,000/- was sanctioned as loan under a lease agreement dated 20.03.1992. Though the first accused company agreed to repay the loan amount in 61 monthly installments, there was default in payment. A cheque dated 27.11.1995 for sum of Rs.4,50,000/-, which was drawn by third accused in favour of the complainant, was returned on presentation with an endorsement "funds insufficient". It has been alleged that the accused, who had availed loan of Rs.4,00,000/- for purchase of equipment, has not submitted the final invoice and also defaulted in paying the installment and the cheque given by the third accused to discharge the loan amount, under the protest that the 3rd accused is the Partner of the first accused company, got bounced. Hence, cumulatively the intention to cheat the complainant from inception of availing loan has been made out and accordingly the accused have to be prosecuted.

3. As per the direction of the learned Metropolitan Magistrate under Section 156 clause (3) Cr.P.C., this private complaint got registered for investigation by the respondent police in Ex.Crime No.337 of 1997. After



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considerable delay, the final report was filed before the Court on 28.11.2006. Thereafter, accused were served with the copies on 06.09.2016. From then onwards, till 2019, there was no progress in the trial.

4. Under said circumstances, the present petition is filed to quash the complaint on the ground that a clear civil dispute has been given a criminal colour and even after lapse of 13 years, there was no apparent progress in the trial since there is no material evidence to try the accused. In said circumstances, the petitioner should not be forced to undergo the ordinal of criminal prosecution purportedly.

5. This Court on considering the facts, directed the Registry to call for the records and accordingly the records were produced. On perusal of the records, this Court finds that apart from the fact that the matter substantially relates to the money lending and a civil dispute and even if assuming that there is some criminality, the inordinate unexplained delay on the part of the *de facto* complainant to initiate the proceedings, that is



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from 1992-1997, and thereafter his non-cooperation in producing the relevant documents to the Investigating Officer leading to the further delay of 9 years to file the final report and from the date of filing of final report till the interim stay granted by this Court on 19.03.2019, there was no progress in the trial. Thus it is very clear that, from the alleged cause of action for the complaint till the interim stay granted, 30 years have lapse, 5 years in filing the complaint and 9 years to file the final report another 10 years to serve copy to the accused persons and no progress in the trial for next three years and it naturally enures a rights to the accused to seek for quash of the proceedings, which has not been proceeded an inch after serving copy to the accused persons on 06.09.2016.

6. The speedy trial is a right flows from Article 21 of the Constitution of India. Though there cannot be specific time limit prescribed for completion of trial, the case in hand shows that the unexplained inordinate delay of nearly 16 years from the date of filing of final report necessarily to be taken note of.



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7. For the aforesaid reasons, This Criminal Original Petition is allowed. Accordingly, the C.C.No.7514 of 2006 against petitioner is quashed. Consequently, the connected miscellaneous petition is also closed.

13.10.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa

To

1.The Additional Chief Metropolitan Magistrate,
Egmore,
Chennai.

2.The Inspector of Police,
Central Crime Branch,
EDF Cell, Team IV,
Egmore, Presently at Vepery,
Chennai 7

3.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

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