



CrI.O.P.No.27188 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.27188 of 2022 and

CrI.M.P.No.16711 of 2022

R.Sivakumar, M/32 years
S/o Ramasamy

... Petitioner

Vs.

1. State rep. by the Sub Inspector of Police,
Palladam Police Station, Palladam,
Tiruppur District.

2. K.Karunthamalai, F/34 years

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in Crime No.190/2016 pending on the file of the first respondent and to quash the same.

For Petitioner : Mr.A.Tamilarasan

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This petition has been filed to quash the FIR in Crime No. 190/2016 on the file of the Respondent Police.



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2. The learned counsel for the petitioner submitted that initially, the respondent police registered a case in Crime No.190/2016 against one Prabakaran for the offences punishable under Sections 279, 304(A) IPC and after investigation, they included the petitioner as an accused in that case. He further submit that, till date, the respondent police has not filed any final report and the case has not been taken cognizance by the Jurisdictional Magistrate. However, they filed adverse report against the petitioner in his Passport Application and in view of the same, Passport was denied to the petitioner. It is also argued by him that all the offences are punishable below three years and hence, in view of Section 468 of Cr.P.C., the FIR has to be quashed as against the petitioner.

3. The learned Additional Public Prosecutor appearing for the respondent submitted that, while registering the case in Crime No.190/2016, the petitioner was not cited as an accused, one Probakaran alone was cited as an accused, however, during investigation, the respondent police found that the petitioner also an accused. He further submitted that, after completion of investigation, Charge Sheet was filed before the competent



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Court, but, it was not taken on file.

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4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor, appearing for the first respondent and I have perused the materials on record.

5. A perusal of the records reveals that, originally the respondent police registered a case in Crime No.190/2016 for the offences punishable under Sections 279 and 304(A) IPC against one Prabakaran and after investigation, they found that the petitioner is also an accused. Further, the respondent police reported to the Government of India, Ministry of External Affairs, Regional passport Office, Coimbatore that the petitioner is an accused of Palladam Police Station in Crime No.190/2016. Based on the above police report, Passport was denied to the petitioner. Therefore, it is not disputed that the petitioner is an accused in Crime No.190/2016. As per the submission made by the learned Additional Government Pleader, though final report has been filed before the jurisdictional Magistrate Court, it was not taken on file. But, there is no material produced by the respondent police



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to prove that they filed any petition before the Magistrate to condone the delay in filing final report.

6. Under these circumstances, it is made clear that, as on date, no final report has been filed and the Trial Court has not taken cognizance of the offences in Crime No.190/2016. Since all the offences are punishable below three years, it is the case of statutory barred by limitations, as per Section 468 of Cr.P.C. No Court is having power to take cognizance beyond the period of limitation.

7. Accordingly, the Criminal Original Petition is allowed and the case registered in Crime No.190/2016 on 19.02.2016 for the offences punishable under Sections 279, 304(A) IPC, by the Respondent Police, is hereby quashed, as against the petitioner, as barred by limitation. Consequently, connected miscellaneous petition is closed.

16.11.2022

Index: Yes/No



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To

1. The Sub Inspector of Police,
Palladam Police Station, Palladam,
Tiruppur District.
2. The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM, J.

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