

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 22.06.2022	Date of Pronouncing Order 01.07.2022
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.OP.Nos.23612, 25553, 27948 & 28367 of 2018
and
Crl.MP.Nos.13261, 14579, 16214 & 16485 of 2018

Crl.OP.No.23612 of 2018

1.Palaniappan, male aged 38 years, (A2)
S/o.Ramasamy

2.Ramu Annamalai, male aged 42 years (A3)
S/o.Ramasamy,

Both the Petitioners are residing at
No.25, 70 Feet Road,
Kaveri Nagar, Saidapet,
Chennai 15.

... Petitioners/Accused 2 & 3

Vs.

State represented by
The Inspector of Police,
Crime Branch CID - Cyber Crime Cell,
Egmore, Chennai 8.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records in C.C.No.4678 of 2018 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and quash the same as against the Petitioners.

For Petitioners : Mr.V.Vijayakumar

For Respondent : Mr.C.E.Prathap
Government Advocate (Crl. Side)

Crl.OP.No.25553 of 2018

Usman Payaz, aged 63 years,
S/o.Usman Pasha,
Chief Executive Officer,
G1, Terminal Tech. Pvt. Ltd.,
No.117, Thiyagarayar Road,
T.Nagar, Chennai 600 017.

... Petitioner/A1

Vs.

The State
Represented by
Inspector of Police,
Crime Branch CID,
Cyber Crime Cell,
Egmore, Chennai 600 008.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pending on the file of the learned XI Metropolitan Magistrate Court, Saidapet, Chennai in C.C.No.4678 of 2018 and quash the same.

For Petitioner : Mr.Ramesh Kumar Chopra

For Respondent : Mr.C.E.Prathap
Government Advocate (Crl. Side)

Crl.OP.No.27948 of 2018

Popat S.Bhedase, male aged 34 years,
S/o.Sakharam Madhu Bhedase,
Savarde (BK) Post,
Shahuwadi Taluk,
Kolhapur District,
Maharashtra State.

... Petitioner/Accused-6

Vs.

State represented by
The Inspector of Police,
Crime Branch CID - Cyber Crime Cell,
Egmore, Chennai 8.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records in C.C.No.4678 of 2018 on the file of the learned XI Metropolitan Magistrate, Saiddapet, Chennai and quash the same as against the Petitioner.

For Petitioner : Mr.V.Vijayakumar

For Respondents: Mr.C.E.Prathap
Government Advocate (Crl. Side)

Crl.OP.No.28367 of 2018

K.K.Gopinath, aged 50 years,
S/o.K.R.Kuppursamy,
Plot No.707, Flat B/3,
Bharat Janta Co-operative Housing Society (CHS),
Indera Nagar, Dharavi,
Mumbai - 400 017. ... Petitioner/Accused-4

Vs.

The State
Represented by
Inspector of Police,
Crime Branch CID,
Cyber Crime Cell,
Egmore, Chennai 600 008. ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pending on the file of the learned XI Metropolitan Magistrate Court, Saidapet, Chennai in C.C.No.4678 of 2018 and quash the same.

For Petitioner : Mr.Ramesh Kumar Chopra

For Respondent : Mr.C.E.Prathap
Government Advocate (Crl. Side)

C O M M O N O R D E R

These Criminal Original Petitions have been filed to quash the criminal proceedings in C.C.No.4678 of 2018, on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai.

2.The Petitioners herein are the Accused No.1 (A1), No.2 (A2), No.3 (A3), No.4 (A4) & No.6 (A6).

3.The common ground raised by the learned counsel for the Petitioners is that maximum punishment for all Sections is either six months or for a period of two years. However, the final report has been filed after a period of nine years.

4.Heard the learned counsel for the Petitioner and the learned Government Advocate (Crl. Side).

5.These Petitioners are prayed for quashing of the criminal proceedings in C.C.No.4678 of 2018, on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai for the alleged offences under Section 128(B), 294(A) IPC and Section 7(3) of the Lotteries (Regulation) Act, 1998 r/w. Section 9 of the Lotteries (Regulation) Act, 1998.

6.The case of the prosecution is that on 10.08.2009 at 17.15 hours the Sub-Inspector of Police, Tirumangalam Police Station raided one Rathinam's house, on secret information and found 4 persons were selling online lotteries of Mizoram and Arunachal Pradesh and 12 persons purchasing those lottery tickets. Since the lottery tickets are prohibited in Tamil Nadu, the seller and the purchasers were arrested and two lottery machines, one reliance phone, a sum of Rs.16,900/-, lottery tickets 10 numbers and result tickets 5 numbers were seized from the sellers and a case was also registered on the very same day.

7.The learned Government Advocate would contend that all the sentence prescribed for the alleged offences are below two years. The complaint was registered on 10.08.2009, final report and charge sheet was made ready on 30.05.2018 (i.e.,) after nine years.

8.The bar under Section 468 of Cr.P.C., shall come into operation, wherein cognizance on the final report cannot be taken for the charges at the distant of time and hence I am inclined to allow these Petitions.

9.In fine, C.C.No.4678 of 2018 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai is quashed as against the Petitioners herein alone and accordingly, these Criminal Original Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To

- 1.The learned XI Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
Crime Branch CID - Cyber Crime Cell,
Egmore, Chennai 8.
- 3.The Public Prosecutor,
High Court,
Chennai 600 104.

Crl.OP.Nos.23612, 25553, 27948 & 28367 of 2018
and
Crl.MP.Nos.13261, 14579, 16214 & 16485 of 2018

RSI(CO)
GMV(25/07/2022)