



WEB COPY

CRL.O.P(MD).No.4382 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P (MD) .No.4382 of 2020

&

CRL.M.P (MD) .No.2474 of 2020

Gnanathiraviyam

... Petitioner

Versus

1.The Inspector of Police,
Valliyoore Police Station,
Tirunelveli District,
Tirunelveli.
(Crime No.88 of 2019)

2.Selvaraj

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.88 of 2019 dated 19.03.2019 on the file of the Respondent No.1 for offence U/ss. 143 and 283 of Indian Penal Code, 1860 and Quash the same as illegal as against the petitioner.

For Petitioner	: M/s.T.Lajapathi Roy, Advocate
For R1	: Mr.E.Raj Thilak Additional Public Prosecutor

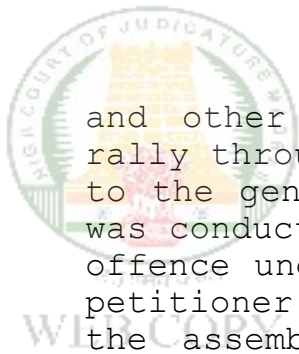
ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the First Information Report in Crime No.88 of 2019 dated 19.03.2019 on the file of the Respondent No.1 for offence U/s. 143 and 283 of Indian Penal Code, 1860 and Quash the same as illegal as against the petitioner.

2.The case of the prosecution is that on 19.03.2019, the defacto complainant who is the Block Development Officer and President, Election Flying Squad No.2, Radhapuram Legislative Assembly had lodged a complaint before the respondent Police stating that the petitioner and other accused persons had formed an assembly and conducted, rally through Valliyoore Nagercoil main road and it caused hindrance to the general public and thereby, on the complaint given by the defacto complainant, the First Information Report had been registered for the offence under Sections 143 and 283 of IPC.

3.The learned counsel appearing for the petitioner would submit that the allegations against the petitioner is that the petitioner

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and other accused persons have assembled together and conducted rally through Valliyoor - Nagercoil Main Road and caused disturbance to the general public. He would submit that the procession, rally was conducted only during the election campaign and thereby that the offence under Section 143 of IPC cannot be attracted as against the petitioner and the other accused since there was no prohibition and the assembly cannot be termed to be unlawful. With regard to offence under Section 283 of IPC, it is punishable with a fine and there is delay in the final report being filed before the Court. Hence hit by limitation he would also submit that the occurrence had taken place on 19.03.2019 and the final report is not filed till date. Hence he sought for quashing of the First Information Report.

4.The learned Additional Public Prosecutor on instructions from the first respondent would submit that complaint has not been filed till date before the concerned Court investigation pending and the respondent will give reason for not filing the complaint within one year, thereafter the concerned Court on satisfaction can Condone the delay and take the case on file. The points raised by the petitioner are premature cannot be decided now.

5.The case has been registered against the petitioner for offences under Section 143 and 283 of IPC. The allegations against the petitioner is that they conducted a rally during election campaign. There was no prohibition, campaigners assembling and taking out rally during election for the purpose of campaign is inevitable, accepted process in a democracy which cannot be termed to be unlawful and the act of the petitioner does not fall within the definition of Section 141 of IPC. Further Section 143 of IPC prescribes the maximum punishment of imprisonment for six months and maximum punishment for offence under Section 283 of IPC is fine which may be extended to Rs.200/-.

6.Section 468 of Cr.P.C imposes bar for taking cognizance of certain offences after a period of limitation. Section 468 of Cr.P.C is extracted hereunder;

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

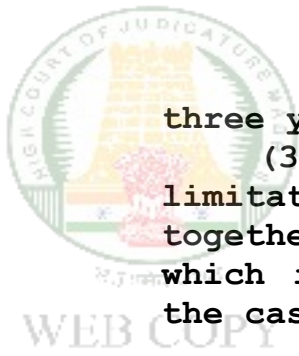
(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(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."

7.The case has been registered on 19.03.2019. As per Section 468 of Cr.P.C the final report after investigation must have been filed within a period of one year. The respondent not able to give any reasonable reason for not filing the complaint before the concerned Court till date. While such being so, the Court cannot take cognizance of the complaint after a period of one year. No purpose will be served by allowing the case in Crime No.88 of 2019 to be kept pending endlessly.

8.In view of the same, the proceedings in Crime No.88 of 2019 is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District,
Tirunelveli.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-2151[F] dated 24/01/2022)

CRL.O.P (MD) .No.4382 of 2020

&

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RS (22.02.2022) 3P-4C