



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) No.6594 of 2022

and

Crl.M.P (MD) No.4559 of 2022

Essaki @ Auto Esakki Raja ...Petitioner/ Sole Accused

Vs.

1. The Inspector of Police,
South Police Station,
Thoothukudi District.
(Crime No.514 of 2016) ...1st Respondent/Complainant

2. M.Siva perumal,
Village Administrative Officer,
Meelavittan Part-II,
Thoothukudi District. ...2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the crime No.514/2016, dated 31.03.2016 on the file of the first respondent police and quash the same.

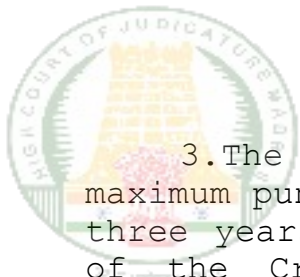
For Petitioner : Mr.R.Anandharaj

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The criminal original petition has been filed to quash the FIR registered in Crime No.514 of 2016 for the offence under Section 153 (A) of IPC and Section 7(1)(A) of Criminal Law (Amendment) Act, 1932.

2.The case of the prosecution is that on 31.03.2016, at about 06.00 am while the second respondent is at regular duty, he saw the crowd on the locality and on enquiry, came to know that the petitioner herein had shared some whatsapp message in favour of Senguttuvan Vandaiyar, which may cause misunderstanding and communal clash between other communities.



3.The offence under Section 153(A) of IPC is concerned, the maximum punishment prescribed is imprisonment, which may extend upto three years or with fine or with both. Insofar as Section 7(1)(a) of the Criminal Law (Amendment) Act shall be punishable with imprisonment for a term which may extend upto six months or with fine, which may extend upto a sum of Rs.5,000/- or with both. Therefore, the period of limitation for the charge sheet is three years. In this regard, it is relevant to extract the provision under Section 468 of Cr.P.C as follows:

'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

1. Provisions of this Chapter shall not apply to certain economic offences, see the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), s. 2 end Sch.

(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 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.]'

4.Therefore, the first respondent ought to have completed the investigation within a period of three years and file a final report from the date of registration of FIR, whereas, though the first respondent had completed the investigation and filed a final report on 18.04.2016, the same was returned for certain complaints. Thereafter, the first respondent failed to comply with the same and failed to represent the same, even till today. That apart, on perusal of the allegations, there is absolutely no ingredients made out to attract the offence under Section 153(A) of IPC and Section 7 (1)(a) of the Criminal Law (Amendment) Act.

5.In view of the above, the FIR registered in crime No.514 of 2016 cannot be sustained as against the petitioner. Therefore, the proceedings in Crime No.514 of 2016 are quashed.



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Cr1.O.P.(MD) No.6594 of 2022

6.The criminal original petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Protocol)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

To

1. The Inspector of Police,
South Police Station,
Thoothukudi District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Cr1.O.P.(MD) No.6594 of 2022

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RD(21.04.2022) 3P 3C