



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.8552 of 2019

and

Crl.MP (MD)No.5360 of 2019

WEB COPY

Hemam Pathusha : Petitioner/Sole Accused
Vs.

1.The State rep. By
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari,
Kanyakumari District. : R1/Complainant
(Crime No.415 of 2013)

2.M.Arunraj : R2/De-facto Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records in connection with CC No. 102 of 2019 on the file of the learned Judicial Magistrate No.1, Nagercoil, Kanyakumari District, in relation to Crime No.415 of 2013 on the file of the Inspector of Police, Kanyakumari, Kanyakumari District. And quash the same as devoid of merit.

For Petitioner : Mr.S.Palani Velayutham
For 1st Respondent : Mr.R.Meenakshisundaram
Additional Public Prosecutor
For 2nd Respondent : No appearance

O R D E R

This petition has been filed by the petitioner seeking quashment of the case in CC No. 102 of 2019 pending on the file of the Judicial Magistrate No.1, Nagercoil, Kanyakumari District, in connection with Crime No.415 of 2013 on the file of the Inspector of Police, Kanyakumari, Kanyakumari District.

2.The case of the prosecution is that the petitioner is running an office at Kottaram, Kanyakumari District and engaged in sending people to abroad for employment. According to the prosecution, that Agency has been run by the petitioner without any proper licence. The 2nd respondent, who is the de-facto complainant wanted to go abroad for employment purpose. So for that purpose, he approached the petitioner and on further enquiry, he came to know that proper licence as per the provisions of Emigration Act, 1983 was not obtained by the petitioner. So on the basis of the complaint given by the de-facto complainant, a case in Crime No.415 of 2013 for the offence under section 24(b) r/w 10 of Emigration Act, 1983 has been



registered. After completing the investigation process, final report was filed before the Judicial Magistrate No.1, Nagercoil and it was also taken cognizance in CC No.102 of 2019.

3.Pending above said proceedings, this petition came to be filed by the petitioner on the ground that taking cognizance by the trial court is illegal. The alleged offence was in the year 2013. The offence took place in 2013. It is clearly barred by limitation. Apart from that, other factual facts are also mentioned in the petition.

4.Heard both sides.

5.A report has been called for from the Judicial Magistrate No.1, Nagercoil, as to the stage of the final report. Even at the time of admission, such a plea was taken. So, without going into merits of the case or otherwise of the factual issues, the matter can be disposed on a short premise.

6.The learned Judicial Magistrate No.1, Nagercoil has submitted a report stating that final report was filed on 10/05/2018 and it was taken cognizance on 26/02/2019 and thereafter, CC No.102 of 2019 was assigned. Now the case has been posted for examination of the witnesses. So from the report of the Judicial Magistrate No.1.Nagercoil, it is seen that the final report was filed only on 10/05/2018. The offence alleged against the petitioner is punishable upto two years. So the final report ought to have been filed within a period of three years from the date of registration of the FIR. But after a lapse of five years, it appears that final report was filed.

7.It is also seen that no petition under section 473 Cr.P.C was filed by the prosecution seeking extension of time before the trial court. In the absence of any such steps, the cognizance that was taken by the trial court is illegal and it is barred by limitation. On that sole ground, this petition is liable to be allowed.

8.In the result, this criminal original petition is **allowed** and the entire proceedings in respect of CC No.102 of 2019 pending on the file of the Judicial Magistrate No.1, Nagercoil, Kanyakumari District is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

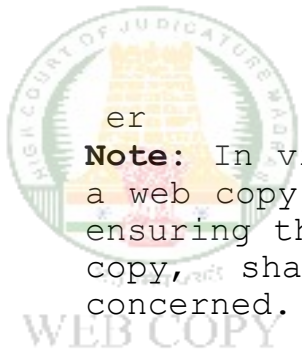
Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:

- 1.The Judicial Magistrate No.I, Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari,
Kanyakumari District.
- 3.The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

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RD(04.03.2022) 3P 4C