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Crl.O.P.No.4246 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.03.2023
Pronounced on : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.4246 of 2021

and

Crl.M.P.No.2699 of 2021

1.A.Manivannan

2.M.Karuppiah

... Petitioners

Vs.

1.The State rep. By

The Inspector of Police,
Vadavalli Police Station,
Crime No.156 of 2007
Coimbatore District.

2.L.Palanisamy

...Respondents

Prayer: This Criminal Original Petition has been filed to call for the records relating to the criminal case in PRC No.10 of 2008 pending committal on the file



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of the Learned Judicial Magistrate No.VI, Coimbatore and quash the same.

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For Petitioners : Mr.N.Manokaran

For R1 : Mr.S.Balaji,

Government Advocate (Crl.Side)

For R2 : No Appearance

ORDER

The petitioners have challenged the final report in PRC No.10 of 2008 filed for the offences under Sections 143, 147, 148, 294(b), 323, 341, 506 IPC and Section 3 of Public Properties (Damages and Loss) Act, 1992.

2. It is alleged in the impugned final report that when a Government bus bearing Reg.No.TN 43 N 0085 was proceeding towards Marudhamalai, in which, the second respondent/defacto complainant was working as a conductor, they heard a noise from the backside of the bus; that when he got down he saw a two wheeler bearing No.TN 41 K6996 had collided with the bus from behind; that thereafter a scuffle took place and fifty students who were studying Law intimidated the driver and the second respondent; and that they assaulted them



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besides causing damage to the bus to the tune of Rs.5000/- (Rupees Five Thousand only).

3.Mr.N.Manokaran, the learned counsel for the petitioners would submit that the occurrence took place in the year 2007 and the final report was filed in the year 2008.The students were victims and they had lodged a complaint originally in Crime No.156 of 2007 against the defacto complainant/second respondent and the driver of the bus for the offences under Sections 237, 279 and 337 IPC in Cr.No.155 of 2007.Thereafter, the de-facto complainant had come up with the false complaint which culminated in the impugned final report. He would submit that the complaint given on behalf of the students was erroneously closed. The learned counsel would further submit that though the second respondent had falsely alleged that fifty law college students were involved in the occurrence, the respondent police had filed final report as against only ten students; that there has been no progress in the case for the past fifteen years; that the petitioners who are arrayed as five and seven have now become lawyers; that the FIR does not contain the name of the second petitioner herein; that as regards the first petitioner who is arrayed as A5 in the final report, the second respondent would state that he later



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came to know his name; that it is not known as to how they fixed the identity of the first petitioner and how the defacto complainant came to know his name; that there is no investigation in this aspect; and that there was no identification parade to ascertain the identity of the accused. The learned counsel therefore submitted that the very version of the second respondent that he came to know the names later without specifying as to how he came to know the names is improbable. In any case, he would submit that the valuable right of speedy trial guaranteed under Article 21 of the Constitution of India has been violated, in the instant case.

4.Mr.S.Balaji, the learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the points raised by the petitioners that the version of de-facto complainant is improbable cannot be decided in a quash petition and has to be raised only during trial. Further, the de-facto complainant was injured. Hence, he prayed for dismissal of the quash petition.

5.Though notice was served on the second respondent, none has entered appearance on behalf of the second respondent.



6.Heard learned counsel for the petitioners and the learned Government

Advocate (Crl.Side) appearing for the first respondent.

7.It is the case of the prosecution that the fifty persons were involved in the occurrence. It is not known as to how only 10 persons were cited as accused. No doubt the names of the accused persons are mentioned in the Section 161 of Cr.P.C, statements of the de-facto complainant, and the driver of the bus. The statements do not disclose as to who told them the names of ten persons who were involved in the alleged occurrence. The Investigating Officer has also not conducted any identification parade to ensure the identity of the accused and make sure if the witnesses had stated the truth. Further, the name of the second petitioner is also not found in the FIR and has been subsequently included in the final report. Even according to the prosecution, fifty persons were involved in the alleged occurrence. There is nothing in the impugned final report to show as to why the prosecution chose to prosecute only ten out of fifty persons. The above would show that the chances of conviction in the facts of this case is bleak. In such circumstances, keeping the impugned proceedings pending would be a futile exercise.



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8. Further, the case is now pending for nearly fifteen (15) years without any trial. The case is yet to be committed to the Sessions Court. The right of the accused to the speedy trial is clearly violated in the facts and circumstances of the case.

9. For all the above reasons, the impugned final report deserves to be quashed. Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

24.03.2023

dk/ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Judicial Magistrate No.VI,
Coimbatore.

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2.The Inspector of Police,
Vadavalli Police Station,
Crime No.156 of 2007,
Coimbatore District.

3.The Public Prosecutor
High Court of Madras.



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SUNDER MOHAN, J

dk/ay

Pre-delivery order in

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and

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