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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.08.2023

Coram:

The Hon'ble Mr.Justice V.SIVAGNANAM

**Crl.O.P.No.6618 of 2021
and Crl.M.P.No.4390 of 2021**

E.Sivaguru

...Petitioner

Versus

1.The Inspector of Police,
T4, Maduravoyal Police Station,
Maduravoyal,
Chennai.

2.M.Thirukumaran @ Kumar

...Respondents

This Criminal Original Petition is filed under Section 482 of Cr.P.C praying to call for the records of the FIR in Crime No.769 of 2013 on the file of 1st respondent police and quash the same.

For Petitioner : Mr.R.Rajarajan

For Respondent – 1 : Mr.L.Baskaran
Government Advocate (Crl.Side)

For Respondent – 2 : No Appearance



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ORDER

This criminal original petition has been filed by the petitioner seeking to quash the FIR in Crime No.769 of 2013 on the file of 1st respondent police.

2. The brief facts of the case are as follows:

One Divya (daughter of the 2nd respondent/de-facto complainant) settled the property measuring to an extent of 1710 Sq.ft comprised in S.No.35/2A, Chettiyar Agaram Village, Chennai in favour of her father (2nd respondent/de-facto complainant) by way of Registered Settlement Deed. From the date of execution of said Settlement Deed, the 2nd respondent/de-facto complainant has been in possession and enjoyment of the said property. While so, on 31.10.2012, petitioner and some rowdy elements trespassed into the said property and put up a shed therein. Thereafter, on 17.06.2013, when the 2nd respondent/de-facto complainant and his wife visited the property, the said rowdies abused the 2nd respondent/de-facto complainant and his wife and also, attempted to assault them. Hence, the



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aggrieved 2nd respondent/de-facto complainant lodged a complaint against the petitioner and those rowdies. Based on the complaint given by the 2nd respondent/de-facto complainant, the 1st respondent police registered a case in Crime No.769 of 2013 against the petitioner and those rowdies for the offences under Sections 341, 447, 294(b), 352 & 354 of I.P.C. Hence, the petitioner has filed the present petition before this Court.

3. The learned counsel for the petitioner submitted that the 1st respondent police registered the FIR in Crime No.769 of 2013 against the petitioner, but, till date, the 1st respondent police has not filed the Charge Sheet. He also submitted that the 2nd respondent/de-facto complainant lodged another complaint against the petitioner & one Mahadevan. On the basis of said complaint, the 1st respondent police registered the FIR in Crime No.376 of 2014 against the petitioner & one Mahadevan for the offences under Sections 420, 463, 465, 467, 468, 471, 474 & 448 r/w. 120(b) of I.P.C and also, filed a Charge Sheet before the VII Metropolitan Magistrate Court (Special Court for CCB & CB-CID Cases), Egmore, Chennai which was also taken on file in C.C.No.5374 of 2020. Aggrieved over the same, the



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petitioner filed a CrI.O.P.No.3607 of 2021 before this Court seeking to quash the Charge Sheet in C.C.No.5374 of 2020 on the file of VII Metropolitan Magistrate Court (Special Court for CCB & CB-CID Cases), Egmore, Chennai and the said CrI.O.P came to be disposed of on 01.11.2022. He further submitted that in the present case, the 1st respondent police had registered a case in Crime No.769 of 2013 against the petitioner for the offences under Sections 341, 447, 294(b), 352 & 354 of I.P.C. The punishment period for the offences under Sections 341, 447, 294(b), 352 & 354 of I.P.C. is below 3 years. As per Section 468(2)(c) of Cr.P.C, no Court shall take cognizance of the offences punishable with imprisonment for a period of three years after the expiry of three years from the date of alleged incident. Though FIR was registered in the year 2013, the Charge Sheet is not yet been filed. Therefore, the learned counsel submitted that the FIR in Crime No.769 of 2013 is liable to be quashed since the same is barred by limitation.

4. The learned Government Advocate (CrI.Side) appearing for the 1st respondent police also submitted that the 1st respondent police has not yet



filed the Charge Sheet in regard to FIR in Crime No.769 of 2013.

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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the 1st respondent police.

6. The issue involved in the present case is that on the basis of the complaint given by the 2nd respondent/de-facto complainant, the 1st respondent police registered the FIR in Crime No.769 of 2013 against the petitioner and others for the offences under Sections 341, 447, 294(b), 352 & 354 of I.P.C. However, till date, the 1st respondent police has not filed the Charge Sheet.

7. As rightly pointed out by the learned counsel for the petitioner, the punishment period for the offences under Sections 341, 447, 294(b), 352 & 354 of I.P.C. is below 3 years. The punishment and fine payable for the offences under Sections 341, 447, 294(b), 352 & 354 of I.P.C are as follows:

Section 341 :- simple imprisonment for a period of 1 month or fine of



Rs.500/- or both

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Section 447 :- imprisonment for a period of 3 months or fine of

Rs.500/- or both

Section 294(b) :- imprisonment for a period of 3 months or fine or

both

Section 352 :- imprisonment for a period of 3 months or fine of

Rs.500/- or both

Section 354 :- imprisonment for a period of not less than 1 year and

up to 5 years with fine

8. At this juncture, it is relevant to extract Section 468 of Cr.P.C 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.]”

9. The above provision makes it clear that if an offence is punishable with imprisonment for a period of 1 year and not exceeding 3 years, after the expiry of said period from the date of occurrence, no Court shall take cognizance of such offence.

10. Considering the fact that punishment period for the offences levelled against the petitioner is 1 year & not exceeding 3 years and the 1st respondent police has not yet filed the Charge Sheet even after a lapse of 10 years, this Court is of the opinion that the FIR registered by the 1st respondent police in Crime No.769 of 2013 is barred by limitation. Hence, this Court is inclined to allow this petition and quash the FIR impugned herein.



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11. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.769 of 2013 on the file of 1st respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Inspector of Police,
T4, Maduravoyal Police Station,
Maduravoyal,
Chennai.

2.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM, J.

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CrI.O.P.No.6618 of 2021

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