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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.14911 of 2023

Kayalvizhi

Petitioner

vs.

1.State rep. by
The Inspector of Police,
Vaniyambadi Town Police Station,
Vaniyambadi, Tirupathur District.
(Crime No.201 of 2015)

2.Devagi

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.201 of 2015 on the file of Inspector of Police, Vaniyambadi Town Police Station, Thirupathur District and to quash the same.

For Petitioner : Mr.G.Vinodhkumar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1



ORDER

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This petition has been filed challenging the FIR registered by the 1st respondent in Crime No.201 of 2015 for offence under Sections 147, 294(b), 323, 324, 506(1) of IPC.

2.Heard Mr.G.Vinodhkumar, learned counsel appearing on behalf of the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing on behalf of the 1st respondent.

3.The short ground that has been raised by the learned counsel for the petitioner is that the FIR was registered in the year 2015 and till date (eight years), no final report has been filed and hence, there is a bar to take cognizance under Section 468 of Cr.P.C., even if the investigation is completed and final report is filed before the concerned Court.

4.The learned Additional Public Prosecutor on instructions submitted that the final report has not been filed in this case.

5.The offence under Section 294(b) of IPC carries a maximum imprisonment of three months, the offence under Section 506(1) of IPC



carries a maximum imprisonment of two years, the offence under Section 323 of IPC carries a maximum imprisonment of one year, the offence under Section 324 of IPC carries a maximum sentence of three years and the offence under Section 147 of IPC carries a maximum sentence of two years.

6. Section 468 of Cr.P.C., provides 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;*
- (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,



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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.It is clear from the above that the cognizance of offence of the category specified in sub-section 2 is barred after the expiry of the period of limitation. In the case in hand, even if the investigation is completed, the cognizance ought to have been taken within three years, considering the maximum imprisonment that is provided for offences for which the FIR has been registered.

8.It is true that Section 473 of Cr.P.C., gives a discretion to the Court to take cognizance in spite of the final report filed after the period of limitation, in appropriate cases. On carefully going through the FIR, it is seen that the entire incident had taken place in the spur of the movement and hence, it does not require the exercise of jurisdiction under Section 473 of Cr.P.C.,

9.In the light of the above discussion, since cognizance cannot be taken by the competent Court due to the bar under Section 468 of Cr.P.C.,

no useful purpose will be served in keeping the FIR pending investigation.



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Accordingly, the FIR in Crime No.201 of 2015 pending investigation before the 1st respondent is hereby, quashed.

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10.This Criminal Original Petition stands allowed in the above terms.

06.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ssr

To

- 1.The Inspector of Police,
Vaniyambadi Town Police Station,
Vaniyambadi, Tirupathur District.
- 2.The Public Prosecutor,
High Court of Madras,
Madras.



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N. ANAND VENKATESH,, J.

SSR

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