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Crl.O.P.No. 21127 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM:

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

Crl.O.P.No. 21127 of 2019

and

Crl.M.P.No.10883 of 2019

1. NDP Dayalan

.... Petitioner

Vs

1. The State rep. by
Inspector of Police,
Nemili Police Station,
Vellore District.

2. T.Manokaran
Assistant Director Grade-I Technical, Regional,
O/o.The Development Commissioner for
Handlooms, Enforcement Wing,
F4-A, 3rd Floor,
Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.

.... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records in S.T.C.No.114 of 2019 on the file of the Judicial Magistrate, Arakkonam and quash the same.

For Petitioner

: Mr.R.Thirumoorthy

For R1

: Mr.L.Baskaran

Government Advocate (Crl.Side)

For R2

: Mr.R.Sidharth



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.114 of 2019 on the file of the Judicial Magistrate, Arakkonam.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The second respondent lodged a complaint that he conducted inspection on 21.11.2017 at about 2.00 p.m. in the Powerloom of the petitioner and found that the dhoties, which are supposed to made up by Handloom, were produced by Powerloom. It is in contravention of the provision under Section 10(a) Violation of the Handlooms Act 1985. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.354 of 2017 for the offence under Section 10 of Handlooms (Reservation of Articles for Production) Act, 1985. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in STC No.114 of 2019 on the file of the Judicial Magistrate, Arakkonam.



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5. The only contention raised by the petitioner is that he produced dhoties by Powerloom instead of Handloom. On the complaint lodged by the second respondent, FIR was registered on 22.11.2017. The first respondent filed final report only on 08.05.2019 before the Trial Court and the same has been taken cognizance in STC No.114 of 2019 on 22.05.2019.

6. The offence under Section 10A shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees per loom by which the said article or class of articles is produced. It is relevant to extract the provision under Section 468 (2) of Cr.P.C, which reads as follows :

“(2) The period of limitation shall be -

(a) Six month, 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.”

7. Accordingly, the period of limitation shall be one year, if the offence is punishable with imprisonment for a term not exceeding



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one year. Therefore, the first respondent ought to have filed final report within a period of one year from the date of registration of the FIR. The first respondent, on the date of complaint itself, registered FIR and arrested the petitioner i.e., on 22.11.2017 and on the same day, the petitioner was released on bail. However, the first respondent completed the investigation and filed final report only on 08.05.2019 and the same has been taken cognizance in STC No.114 of 2019 on 22.05.2019. Therefore, the entire proceedings cannot be sustained, since it is barred by limitation, and it is liable to be quashed.

8. In view of the above, the proceedings in S.T.C.No.114 of 2019 on the file of the Judicial Magistrate, Arakkonam, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

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1. The Judicial Magistrate,
Arakkonam.

2. The Inspector of Police,
Nemili Police Station,
Vellore District.

3. The Assistant Director Grade-I Technical, Regional,
O/o. The Development Commissioner for Handlooms,
Enforcement Wing,
F4-A, 3rd Floor,
Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.

4. The Public Prosecutor,
High Court, Madras.



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