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Crl.O.P.No.23392 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.23392 of 2019

&

Crl. M.P.No.12292 of 2019

P.Nalluswamy

... Petitioner

Vs.

1.State by,
The Inspector of Police,
Maruvathur Police Station,
Perambalur District.

2.Kalanther Naina Mohammed
Special Officer,
Primary Agriculture Cooperative Society,
Sirukudal, Perambalur District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.196 of 2008 on the file of the Inspector of Police, Maruvathur Police Station, Perambalur District and quash the same.



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For Petitioner : Mr. R.Thirumoorthy

For Respondents : Mr. S.Balaji
Government Advocate (Crl. Side)

ORDER

The petition is to quash the FIR filed for the alleged offences under Section 409 and 380 read with 511 of IPC.

2. It is alleged in the FIR that the petitioner who was a Writer and incharge of sales of fertilisers in Primary Agriculture Cooperative Society, Sirukudal, along with the others had attempted to take away the fertilisers and sell it in the black market. It is further alleged that the defacto complainant on the complaint given by the general public visited the office of the Society at about 12 a.m., in the midnight and seized TATA 207 Van bearing No.TN 47 L 1541, which was kept for



the purpose of transporting the fertilisers.

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3. The learned counsel for the petitioner submitted that the impugned FIR was lodged on 10.10.2008 and disciplinary proceedings were initiated against the petitioner and in the said proceedings the petitioner was found guilty of shortage of stock in the premises and therefore given a punishment of increment cut, for a period of 3 years.

4. The learned counsel further submitted that the mere shortage of goods would not attract the offences of attempting to commit misappropriation or theft. The learned counsel submitted that the impugned FIR was registered in the year 2008 and the respondent has not filed a final report till now and hence the petitioner's right under Article 21 of the Constitution of India, for speedy trial is violated.

5. The learned Government Advocate (Crl. Side) however



submitted that the investigation is pending and the allegations in the FIR constitutes the offences alleged against the petitioner.

6. This Court finds that the impugned FIR for the alleged offence is liable to be quashed on the ground of inordinate and unexplained delay in conducting the investigation and filing a final report. It is seen that the quash petition has been filed in the year 2019. Even at the time of the filing of the quash petition, 11 years had lapsed and the respondent Police had not taken any steps to conclude the investigation and file a final report, till then. It is now 15 years since the date of registration of the FIR. Allowing the proceedings to continue after 15 years would be in violation of the petitioner's right for speedy Trial.

7. It is well settled that right to speedy Trial flowing from Article 21 of the Constitution of India encompasses the stage of investigation as well. The prosecution has not shown any exceptional



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circumstances for the delay in conducting the investigation and filing of the final report. The facts of the present case is squarely covered by the Judgement of this Court reported in **(2012) 1 MLJ (Crl) 701 – J.Jayalalithaa and others Vs. Central Bureau of Investigation, represented by its SP/CBI/CBI, Chennai** and the Judgement of this Court in **Crl.R.C.No.1023 of 2012 dated 08.11.2013**.

8. For the above said reasons, this Court is of the view that the impugned FIR is liable to be quashed and accordingly quashed. The petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

06.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

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To

The Inspector of Police,
Maruvathur Police Station,
Perambalur District.

SUNDER MOHAN. J,

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