



Crl.O.P.No.23727 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

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

Crl.O.P.No.23727 of 2019

and

Crl.M.P.No.12490 of 2019

1. Palani
2. Kumaran
3. Rajkamal @ Ramkamal
4. Sundar @ Sappai

...Petitioners

-Vs-

1. The Inspector of Police,
P-4, Basin Bridge Police Station,
Chennai-12.

2. Muthusamy
- ...Respondents

Prayer : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973, to call for the fresh charge sheet in C.C.No.197 of 2011 on the file of X Metropolitan Magistrate Court, Egmore, Chennai pending against the Petitioners and quash the same.

For Petitioners	: Mr.K.Thenrajan
For R1	: Mr.L.Baskaran
	Government Advocate (Crl.side)
For R2	: No appearance



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ORDER

This Criminal Original Petition has been filed challenging the proceedings in C.C.No.197 of 2011 on the file of X Metropolitan Magistrate Court, Egmore, Chennai.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record. There is no representation on behalf of the second respondent.

3. The case of the prosecution is that on 11.09.2010 at about 05.45 p.m, due to previous enmity, the accused pelted stones and also attacked with knife, due to which, the second respondent sustained injury and treated in the private hospital. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.267 of 2010 for the offences punishable under Sections 341, 324, 427 and 506(ii) of IPC. After completion of investigation, the first



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respondent filed final report for the offences punishable under Sections 323, 294(b), 341 and 506(ii) of IPC as against A1 to A4. The first respondent deleted the accused 5 to 8, on the ground that there is no specific overtact against them and were not involved in the occurrence.

5. Aggrieved by the same, the defacto complainant viz., the second respondent herein filed a protest petition and the learned X Metropolitan Magistrate, Egmore, Chennai by an order dated 17.04.2014, in Crl.M.P.No.10 of 2014 in C.C.No.197 of 2011, directed to re-investigate the case and file an additional report, within a period of two months. However, the first respondent completely re-investigated the entire crime and filed a final report as against all the accused, only on 31.07.2019, viz., after a period of five years from the date of the order of re-investigation. All the offences are triable by the Magistrate. Therefore, the first respondent ought to have filed final report, within a period of three years from the date of receipt of a registration of FIR.



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6. In this case, the learned Trial Court, after having taken cognizance in the first final report filed by the first respondent dated 22.01.2011 in C.C.No.197 of 2011, after a period of three years, the second respondent filed a protest petition in Crl.M.P.No.10 of 2014 in C.C.No.197 of 2011 seeking further investigation. The Trial Court passed an order on 17.04.2014, directing the first respondent to conduct re-investigation instead of further investigation. However, the learned Magistrate directed the first respondent to file additional report. The first respondent had taken four years thereafter and filed in the form of final report as against all the accused, instead of filing additional report as against the deleted accused viz., A5 to A8. Therefore, it is clearly barred by limitation and the final report cannot be sustained for taking cognizance for any of the offences as alleged by the prosecution.

7. Further, a perusal of final report also revealed that there are no specific allegations as against the petitioners and the entire allegations are trivial in nature. There was previous enmity between the second respondent and the petitioners' family. Both are neighbours.



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8. In view of the above, the impugned proceedings in C.C.No.197 of 2011 on the file of X Metropolitan Magistrate Court, Egmore, Chennai, cannot be sustained as against the petitioners and it is liable to be quashed. Accordingly, the proceedings in C.C.No.197 of 2011 on the file of X Metropolitan Magistrate Court, Egmore, Chennai, is hereby quashed as against the petitioners.

9. 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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G.K.ILANTHIRAIYAN. J.

mn

To

1. The X Metropolitan Magistrate Court, Egmore, Chennai.
2. The Inspector of Police,
P-4, Basin Bridge Police Station,
Chennai-12.
3. The Public Prosecutor,
High Court, Madras.

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