



Crl OP No.28032 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

The HONOURABLE MS.JUSTICE R.N.MANJULA

Crl OP No.28032 of 2019

Vijayakumar

.. Petitioner

VS

1.The Inspector of Police,
Gudiyattam Town Police Station,
Gudiyattam, Vellore District.

2.S.Senthil Velan

.. Respondents

Petition filed under Section 482 of Cr.P.C to call for the entire records pursuant to the FIR in Crime No.305 of 2013 on the file of the 1st respondent dated 01.04.2013 and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.B.Leninbalu

For Respondents : Mr.A.Gopinath
Government Advocate
(Criminal Side)

ORDER

1. This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure seeking to quash the



Crl OP No.28032 of 2019

FIR pending investigation in Crime No.305 of 2013 on the file of the first respondent / police dated 01.04.2013.

2. The first respondent / police has registered FIR in Crime No.305 of 2013 against the petitioner and others for the alleged offences punishable under Sections 147,341, 294(b) and 506(i) IPC.

3. It is seen that the FIR has been registered by the first respondent / police on 01.04.2013 for the occurrence that took place on 31.03.2013 as against the petitioner. The first respondent / police did not complete the enquiry and filed a final report within the period of limitation. Bar to take cognizance after the lapse of period of limitation has been enunciated under Section 468 of Cr.P.C., which reads 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—



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Crl OP No.28032 of 2019

(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."

4. Thus, the maximum punishment for the offence punishable under Section 506(i) IPC is two years imprisonment and hence the first respondent / police ought to have filed the charge-sheet on or before 31.03.2016. The limitation for taking cognizance is three years from the date of registration of the FIR. Admittedly, the first respondent / police did not conduct enquiry or file any charge-sheet on or before 31.03.2016.



Crl OP No.28032 of 2019

5. Further, it is also seen that the first accused by name Moorthi has filed a copy application to obtain the charge sheet before the learned Judicial Magistrate, Gudiyatham, Vellore District and the same was returned on 30.10.2017 for the reason that the charge-sheet has not yet been filed.

6. Learned counsel for the petitioner also submitted that, the co-accused viz., S.Moorthi, filed a quash petition in Crl.O.P.No.26713 of 2017 and the same was quashed vide order dated 16.04.2019. Therefore, the learned counsel submits that the same be applied to the petitioner as well.

7. Considering the above facts and circumstances of the case and the case is pending since 2013, no purpose will be served in keeping the petition pending and to meet the ends of justice, this Court is inclined to quash the FIR in Crime No.305 of 2013. Accordingly, this Criminal Original Petition is allowed.

09.01.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm



Crl OP No.28032 of 2019

To

- 1.The Judicial Magistrate, Gudiyatham.
- 2.The Inspector of Police,
Gudiyattam Town Police Station,
Gudiyattam, Vellore District.
- 3.The Public Prosecutor,
High Court, Madras.



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Crl OP No.28032 of 2019

R.N.MANJULA.,J

ssm

Crl.O.P.No.28032 of 2019

09.01.2023