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Crl.O.P.No.28313 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.28313 of 2022

and

Crl.M.P.No.17409 of 2022

1.Sugumaran

2.Kathiresan

...

Petitioners

Vs.

The State by,

The Inspector of Police,

Crime Branch CID – Cyber Crime Cell,

Egmore, Chennai – 8.

...

Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and quash the proceedings in C.C. No.4678 of 2018 pending before the learned XI Metropolitan Magistrate Court, Saidapet at Chennai.

For Petitioners : Mr.C.Ganesh Pandian

For Respondent : Mr.S.Santhosh

Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed to call for the records and quash the proceedings in C.C.No.4678 of 2018, pending before the XI Metropolitan Magistrate Court, Saidapet, Chennai.

2.The learned counsel for the petitioners submitted that the petitioners



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along with the other accused were prosecuted for the offences under Sections 120 B, 294 (A) and 7 (3) of Lotteries Regulation Act r/w Section 9 of the Lotteries Regulation Act, 1998. FIR was registered in this case in the year 2009 in Crime No.512 of 2009. Thereafter, final report was filed only in the year 2018 and the case was taken on file in C.C.No.4678 of 2018, which is beyond the period of limitation.

3.He further submitted that some of the co-accused had filed Crl.O.P.Nos.23612, 25553, 27948 & 28367 of 2018 for quashing the proceedings against them. This Court, on 01.07.2022, finding that the final report was filed beyond the period of limitation and the case was taken on file after the period of limitation, quashed the proceedings. Petitioners herein are similarly placed like the petitioners in the aforesaid criminal original petitions. Thus, he prayed for quashing of the proceedings.

4.The learned Government Advocate (Crl.Side) though conceded that the case against the petitioners in Crl.O.P.Nos.23612, 25553, 27948 & 28367 of 2018 is quashed, he opposed quashing of this case.



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5.Considered the rival submission and perused the records. It is seen from the records produced in this case that FIR was registered against the accused under Sections 294(A) & 420 IPC and Sections 5, 6, 7 (1) of Lotteries Regulation Act. After investigation, case was altered into Sections 120 B, 294 (A) and 7 (3) of Lotteries Regulation Act r/w Section 9 of the Lotteries Regulation Act 1998.

6.The case of the prosecution is that on 10.08.2009 at about 17.15 hrs, Sub Inspector of Police, Thirumangalam Town Police Station raided the house of one Rathinam and found four persons were selling online lottery of Mizoram and Arunachal Pradesh States and 12 persons were purchasing the same. Sale of lottery tickets is prohibited in Tamil Nadu. Therefore, Sub Inspector of Police, arrested the sellers and purchasers, seized two lottery machines, a phone and a sum of Rs.16,900/-, 10 lottery tickets and 5 result tickets and registered the case as aforestated. Thereafter, final report was filed under Section 173 (2) Cr.P.C. The punishment for the offences under section 7 of the Lotteries Regulation Act, 1998, is only two years or with fine or with both. Section 9 deals with offences committed by Companies. The punishment provided for the offences under Section 294 IPC is imprisonment



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of six months or with fine or with both. The punishment provided for the offences under Section 120 B IPC is that imprisonment for a term not exceeding six months or with fine or with both.

7.As per Section 468 Cr.P.C., there is a bar to take cognizance after lapse of the period of limitation. 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 term exceeding one year but not exceeding three years. Therefore, in this case, it is required that final report ought to have been filed within three years from the date of registration of the FIR. Contrarily, final report was filed only in the year 2018, for the FIR which was registered on 10.08.2009. Thus, this Court finds that the case is barred by limitation and therefore, taking cognizance of the case is against law and any continuation of further proceedings in C.C.No.4678 of 2018 is against law and thus, this Criminal Original Petition is allowed.

8.In fine, this Criminal Original Petition is allowed and C.C. No.4678 of 2018, on the file of the XI Metropolitan Magistrate Court, Saidapet, Chennai



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is quashed. Consequently, connected miscellaneous petition is closed.

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Internet:Yes

Index:Yes/No

Speaking/Non speaking order

To:

1.The XI Metropolitan Magistrate Court,
Saidapet, Chennai.

2.The Inspector of Police,
Crime Branch CID – Cyber Crime Cell,
Egmore, Chennai – 8.

3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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