



Crl.O.P.(MD)No.5719 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 11.01.2023

Pronounced on : 20.01.2023

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.5719 of 2020

and

Crl.M.P.(MD).No.3131 of 2020

R.Selvakumar

... Petitioner/Accused No.2

Vs.

1.State Represented by
Inspector of Police,
Srivilliputhur Town Police Station,
Srivilliputhur,
Virudhunagar District.
(Crime No.565 of 2012)

... 1st Respondent/Complainant

2.Santhana Kumar

...2nd Respondent/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the case in Crime No.565 of 2012 on the file of the 1st Respondent and quash the same against the petitioner.

For Petitioner : Mr.C.Vakeeswaran

For R-1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor.

For R-2 : No appearance



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ORDER

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The Criminal Original Petition is filed to quash the FIR in Crime No.565 of 2012 registered on the file of the first respondent for the offences under Section 147 and 153(A)(1)(a) IPC.

2. The allegations in the FIR are that the petitioner along with others had insulted the leader of the defacto complainant, whose picture was erected in a flex by garlanding with chappals. The petitioner is said to be the lawyer advising the Auto Stand in the said area. On the complaint given by the defacto complainant, the first respondent registered a case in Crime No.565 of 2012 for the offences under Sections 147 and 153(A)(1)(a) IPC. The alleged occurrence is said to have taken place on 29.10.2012.

3. Mr.C.Vakeeswaran, learned counsel for the petitioner submitted that the offences alleged in the impugned FIR are the offences under Section 147 IPC and 153(A)(1)(a) IPC. The maximum punishment provided for the offences are two years for the offence under Section 147 IPC and three years for the offence under Section 153(A)(1)(a) IPC. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of ***Sarah Mathew Vs. The Institute of Cardio Vasular Diseases and others*** reported in **(2014) 2 SCC 62** in support of his submission that the impugned proceedings are liable to be quashed since it is barred by limitation. The



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learned counsel for the petitioner submitted that the impugned FIR is false. The second respondent had committed an offence by garlanding the leader of another party using slippers for which a complaint was preferred against him in Crime No.154 of 2012 on the file of the Vanniyampatti Police Station. As a counter blast, the second respondent has come up with this false complaint as against the petitioner and others.

4. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the first respondent submitted that the charge sheet has already been filed in the year 2020, however, the same has not been taken on file by the jurisdictional Magistrate yet. The allegations in the FIR constitute the offences alleged and the petitioner has not made out a ground for quashing the FIR. The learned Additional Public Prosecutor further submitted that sanction was accorded for prosecution of the petitioner and others under Section 153(A)(1) (a) of IPC by the State Government by G.O.Ms.No.370 dated 13.07.2020. Hence, there was a delay in filing the final report. Therefore, the impugned final report cannot be said to be barred by limitation.

5. Though a learned counsel has entered appearance on behalf of the second respondent, none represented him when the matter was called.



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6. We find from the submission of the learned Additional Public Prosecutor that the first respondent has filed the final report on 04.08.2020. Even though the Court is yet to take cognizance, as per the dictum of the Hon'ble Supreme Court in *Sarah Mathew's* case (cited supra), the date of filing of final report is relevant for the purpose of computation of limitation. In the instant case, the date of filing of the final report is way beyond the period of limitation.

7. We find from the impugned FIR that the offences alleged are under Section 147 and 153(A)(1)(a) IPC. The impugned FIR has to be quashed, since the respondent Police had not filed final report till the instant quash petition was filed. Even thereafter, though it is stated by the learned Additional Public Prosecutor that the final report was filed on 04.08.2020, it is yet to be taken on file. Section 468 CrPC provides that the limitation for taking cognizance is three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Thus, for both the offences under Section 147 and 153(A)(1)(a) IPC, the period of limitation is three years. The submission of the learned Additional Public Prosecutor that the delay was occasioned since the sanction was obtained only on 13.07.2020, cannot be accepted. The order granting sanction in G.O.Ms.No.370 dated 13.07.2020



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reveals that the sanction sought only on 25.10.2019 by the District Collector.

The delay in seeking sanction has not been explained. The request for sanction ought to have been made within the limitation period prescribed for the offence. Since the request itself was made in the year 2019, that cannot be stated as a reason for the delayed final report. The respondents were unable to justify the delay in the investigation and for filing of the final report. In such circumstances, no useful purpose would be achieved in keeping the FIR pending. Admittedly, the final report said to have been filed has not been taken on file. Since the cognizance is barred as the period of limitation has expired for both the offences, the final report has been filed much after the period of limitation and there is no justifiable cause for the delay, the impugned FIR deserves to be quashed and hence quashed.

8. The Criminal Original Petition is allowed. Consequently, connected miscellaneous petition stands closed.

20.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm



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- 1.The Inspector of Police,
Srivilliputhur Town Police Station,
Srivilliputhur,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

Lm

**Pre-delivery Order made in
Crl.O.P(MD).No.5719 of 2020
and
Crl.M.P.(MD).No.3131 of 2020**

20.01.2023