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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09/06/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.6159 of 2023
and
Cr1.MP(MD)Nos.5394 and 5395 of 2023

1.R.Suresh
2.R.Ramesh : Petitioners/A6 and A7

Vs.

1.State through by
The Inspector of Police,
Muthaiahpuram Police Station,
Thoothukudi District.
(in Crime No.56 of 2013) : R1/Complainant
2.Syed Sirajudeen : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the charge sheet in CC No.24 of 2017, dated 17/02/2017 on the file of the Judicial Magistrate No.2, Thoothukudi and quash the same.

For Petitioners : Mr.M.Symbulinga Bharathi

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition has been filed seeking quashment of the case in CC No.24 of 2017 on the file of the Judicial Magistrate No.2, Thoothukudi.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that the two wheeler bearing registration No.TN-69-AF-0047 belongs to him. It was purchased by him on hire-purchase basis. The above said vehicle was stationed, on 22/01/2013 near Dhanushkodi Fuel Service Station, Tiruchenthoor main road, Thoothukudi. On 24/01/2013, when he went to that place, the above said lorry was found missing. He made enquiry with the finance company and neighbouring area also, but he could not find out the lorry. So, he lodged a complaint stating that the above said lorry has been stolen. Based upon which, a case in Crime No.56 of 2013 has been registered for the offence under section 379 IPC @ 379, 411 and 414 IPC. After completing the investigation process, charge sheet was filed and it was taken cognizance in CC No.24 of 2017 by the Judicial Magistrate No.2, Thoothukudi.



3. Seeking quashment of the above said proceedings, this petition has been filed by these petitioners, who are arrayed as A6 and A7.

4. Heard both sides.

5. In the final report, it has been stated that the above said vehicle was stolen by A1 to A5 and sold the same to these petitioners. Having known that it is a stolen property, they purchased the same and dismantled the lorry and sold the spare parts. So, they are liable to be punished under sections 411 and 414 IPC.

6. The ground on which, this petition came to be filed is that except the statement of the co-accused, no other material is available. Another ground is that the offence is of the year 2013, but only in February 2017, final report was filed. So, it is barred by limitation.

7. It is a case of theft of the vehicle and selling the same to these petitioners, who received the same knowing fully that it is a stolen property, dismantled it and sold the spare parts.



8.A serious allegation has been made against all the accused persons. Whether these petitioners received the property having known that it is a stolen property cannot be a matter for consideration by this court while exercising the jurisdiction under section 482 Cr.P.C. It is entirely a factual issue, which got to be tried to its logical conclusion.

9.Now the second point is that it is barred by limitation. At the time of filing the complaint and registration of the case, the accused were not known. So, it was registered against unknown persons. To know the investigation process, as to how these petitioners have been implicated, CD file has been called for and perused.

10.Perusal of the CD file shows that the case is of the year 2017 and after a lapse of 6 years, these petitioners approached this court seeking quashment. The delay on their part in approaching this court is not properly explained.

11.The first clue is that during the investigation i.e., on 07/11/2014 in the earlier hours, when the police



team was on routine vehicle check up, a four wheeler was found near Mathavar Village area. The police team tried to intercept the same on suspicion. But the accused failed to stop the vehicle. It was intercepted and at that time, eight persons were found in the Car. During the course of enquiry, it was found that those persons are involved in various theft cases. They were arrested in the spot itself and remanded to custody. In the course of the investigation, the accused gave a confession, on 19/04/2014. The accused confessed that they have stolen lorry bearing registration No.TN-69-AF-0047. The above said statement was given by one Kutty @ Sathiyamoorthy. They have also implicated the persons, who received the stolen properties. On that basis, further investigation was undertaken and the involvement of these petitioners came to light and the confession statement of the petitioners was also recorded. In pursuance of which, stolen parts available in the present vehicle was also recovered. So, it is not correct on record to say that only the confession statement of the co-accused is available as material. The date of arrest of the petitioners is relevant for considering the limitation period.



12.As mentioned above, the date of arrest of these petitioners is 06/12/2014, on which date a portion of the property was also recovered. The final report was filed, on 20/02/2017, which is well within a period of limitation. Since, serious allegation has been made and sufficient materials have been collected against the petitioners during the course of the investigation and in pursuance of their disclosure statement, I find no reason to quash the proceedings. It must be taken to its logical conclusion. Considering the oldness of the matter, there shall be a direction to the trial court to complete the trial process and dispose of the case within a period of four months from the date of receipt of a copy of this order.

13.With the above said direction, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

09/06/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.2,
Thoothukudi.
- 2.The Inspector of Police,
Muthaiahpuram Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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