



Crl.O.P(MD).No.13266 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 26.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.13266 of 2021

and

Crl.M.P.(MD)No.6841 of 2021

Bohar

...Petitioner

Vs

1.State represented by,
The Inspector of Police,
Manamelkudi Police Station,
Pudukottai District.
(Crime No.58 of 2018)

2.Ed Sulthan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for records pertaining to the FIR in Crime No.58 of 2018 on the file of the first respondent Police and quash the same in so far as the petitioner is concerned.

For Petitioner	: Mr.T.Lenin Kumar
For 1 st Respondent	: Mr.M.Sakthikumar
	Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the FIR in Crime No.58 of 2018 on the file of the first respondent.



Crl.O.P(MD).No.13266 of 2021

WEB COPY

2. According to the petitioner, the second respondent gave a complaint as against the petitioner for the offence under Section 279 and 337 of IPC. Based on the complaint, the first respondent registered a case in Crime No.58 of 2018 for the offence under Section 279 and 337 of IPC and thereafter, they have not filed charge sheet and no witnesses were examined. Without any progress, the case is pending from the year 2018. The petitioner has not committed any offence as alleged in the FIR and the limitation period was also lapsed and the pending FIR is liable to be quashed.

3. No counter has been filed on the side of the respondents.

4. The learned counsel appearing for the petitioner would contend that based on the complaint given by the second respondent, the first respondent registered a case in Crime No.58 of 2018. Thereafter, no investigation was conducted by the first respondent. Still they have not filed charge sheet. The case is barred by limitation and thereby, pending FIR in Crime No.58 of 2018 is liable to be quashed.

5. The learned Government Advocate appearing for the first respondent would contend that the case records of this case were misplaced and not



Crl.O.P(MD).No.13266 of 2021

traceable. There is no records available to proceed the case further. The first respondent is unable to file charge sheet due to missing of case file. As per available records, the Section of law has been altered into 304A of IPC. They have only copy of the FIR and post mortem certificate. Apart from that no records were found. Therefore, this Court may pass suitable orders.

6.Heard both sides and perused the materials available on records.

7.On perusal of the records, it is admitted fact that the petitioner has been arrayed as accused in Crime No.58 of 2018 and the date of FIR is 08.06.2018. The preliminary investigation was conducted and no charge sheet was filed. The contention of the petitioner is that the case is barred by limitation. As far as the offence under Section 279, 304(A) and 337 of IPC are concerned, there is bar to take cognizance for the learned Magistrate under Section 468(2) of Cr.P.C., after period of three years. But in this case, so far not filed the charge sheet and bar is to take cognizance by the Court and further there is a chance to the respondents to file petition under Section 473 of Cr.P.C., to condone the delay. Thereby, question of limitation for taking cognizance would not arise. Still the petitioners can file the petition under Section 473 of Cr.P.C. Hence, the contention of the petitioner is not acceptable to that regard. Further the case is pending without any progress from the year



Crl.O.P(MD).No.13266 of 2021

2018. The second respondent also fairly admitted that no records available to proceed the case further and the records were misplaced.

8. Therefore, considering the aforesaid submissions and considering that without any investigation, for the past five years, the case is merely pending at the stage of FIR would not serve the purpose. Therefore, it is appropriate to quash the FIR to meet ends of justice. The petitioner need not wait for more than five years without any progress of case due to the fault of the respondents. Therefore, this Court is inclined to quash the FIR.

9. In view of the above, this Criminal Original Petition is allowed and the pending FIR in Crime No.58 of 2018, on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

26.09.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn



WEB COPY



CrI.O.P(MD).No.13266 of 2021

To

- 1.The Inspector of Police,
Manamelkudi Police Station,
Pudukottai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P(MD).No.13266 of 2021

P.DHANABAL, J.

Mrn

Crl.O.P(MD).No.13266 of 2021

26.09.2023