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Crl.O.P.(MD)No.14803 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	17.08.2023
Delivered on	26.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.14803 of 2023
and Crl. M.P.(MD) No.11708 of 2023

1.Mohan
2.Babu
3.Pappa

... Petitioners/
Accused Nos.1 to 3

Vs.

1. The Inspector of Police,
Thiruverumbur Police Station,
Madurai District.
Crime No.349 of 2018.

... 1st Respondent/Complainant

2. Murugesan

... 2nd Respondent/
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to FIR in Crime No.348 of 2018 on the file of the first respondent police and quash the same so far as the petitioners/A1 to A3 are concerned.

For Petitioners : Mr.J.Vishnu

For Respondents : Mr.SS.Madhavan
Government Advocate (Crl. Side)



CrI.O.P.(MD)No.14803 of 2023

for R1

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ORDER

The accused Nos.1 to 3 in Crime No.348 of 2018 pending on the file of the first respondent police have invoked the inherent jurisdiction of this Court under Section 482 of Cr.P.C. seeking quashment of FIR on the ground that the respondent police failed to file charge sheet since October, 2018 under Section 486 of Cr.P.C. thereby the Court cannot take cognizance even if charge sheet is filed.

2. The facts in brief would go to show that on 27.09.2018 at about 9.45 p.m., altercation took place between the petitioner and the defacto complainant in respect of throwing cow dung on the compound wall of the defacto complainant. There were disputes between them in respect of immovable property on account of which a wordy exchange took place and though an attempt to made for pacifying the issue and compromise between them by the elders, the defacto complainant has finally filed a complaint before the police. On the strength of the complaint, the police have registered a case in Crime No.348 of 2018 for the offences



CrI.O.P.(MD)No.14803 of 2023

punishable under Section 294(b) and 323 of IPC.

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3. Learned counsel for the petitioner submitted that the petitioner has filed this application seeking quashment of FIR only on the ground that the investigating agency has no limitation to file the charge sheet as per Section 468 of Cr.P.C.

4. Learned Government Advocate who has represented the respondent police has fairly submitted that the petitioners are entitled for the benefit under Section 468 of Cr.P.C.

5. The FIR has been registered against the petitioners for the offences under Sections 294(b) and 323 of IPC. Section 294(b) runs as under:-

"294 (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. "



CrI.O.P.(MD)No.14803 of 2023

6. Section 323 of IPC runs as under:-

"Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both."

7. The maximum punishment can be imposed if the case under Section 294(b) is proved is three months or with fine or with both whereas if the offence under Section 323 of IPC is proved, the maximum sentence that can be awarded is imprisonment for one year and fine that may extend up to Rs.1000/-. Therefore, considering both the offences, the maximum punishment that can be imposed under Section 323 of IPC is one year imprisonment.

8. Section 468(2)(b) of Cr.P.C. runs as under:-

"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.



CrI.O.P.(MD)No.14803 of 2023

- (2) 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 a term exceeding one year but not exceeding three years. "

As per Section 468(2) (b) of Cr.P.C., if the sentence awarded not exceeding one year, charge sheet is to be required to filed within one year otherwise there is a bar for taking cognizance.

9. The Hon'ble Supreme Court has laid down the guidelines for exercising of inherent power under Section 482 of the Cr.P.C. for quashing the criminal proceeding in the case of *State of Haryana v. Bhajanlal* reported in *1992 SCC (Cri) 426*, which reads as follows:-

"**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of



justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just



CrI.O.P.(MD)No.14803 of 2023

conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. As per the above law laid down by the Hon'ble Apex Court, in case if there is a specific bar under any statute, the charge sheet is required to be quashed. In the case on hand, as already observed, there is a bar specifically imposed under statute by way of Section 468 of Cr.P.C. from taking cognizance in case if the charge sheet is not filed within one year in respect of the offences alleged against the petitioner. Therefore, the charge sheet is required to be quashed. Since, learned counsel for the petitioners though mentioned other grounds in respect of merits basing



Crl.O.P.(MD)No.14803 of 2023

on which he sought for quashment. They are not relevant to discuss since this Court has already come to the conclusion that the charge sheet is liable to be quashed basing on the limitation.

11. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.348 of 2018 pending on the file of the first respondent police are hereby quashed. Consequently, the criminal miscellaneous petition is closed.

26.09.2023

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



Crl.O.P.(MD)No.14803 of 2023

To

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



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Crl.O.P.(MD)No.14803 of 2023

DR.D.NAGARJUN,J

PKN

Crl.O.P.(MD)No.14803 of 2023

Dated: 26.09.2023