



CRL.O.P.(MD)No.14640 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2023

CORAM

THE HONOURABLE DR.JUSTICE D.NAGARJUN

CRL.O.P.(MD)No.14640 of 2023

and

CrI.M.P.(MD).No.11540 of 2023

Jafer Ali

... Petitioner

Vs

1.State

represented by the Sub Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District.

2.Veerapaghu

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, calling for the records relating to FIR in Crime No.610 of 2019, dated 28.09.2019 on the file of the Inspector of Police, Thoothukudi South Police Station, Thoothukudi District and quash the same as against the petitioner.

For Petitioner : Mr.S.Sarvagan Prabhu

For R-1 : Mr.SS.Madhavan
Government Advocate (Criminal Side)



CRL.O.P.(MD)No.14640 of 2023

ORDER

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This Criminal Original Petition is filed under Section 482 of Cr.P.C. seeking quashment of FIR in Crime No.610 of 2019, dated 28.09.2019 on the file of the Inspector of Police, Thoothukudi South Police Station, Thoothukudi District.

2. According to the learned counsel for the petitioner, the petitioner and another accused drove a bike and took photos of the *defacto* complainant's college without permission. When the staff of the college asked the accused persons that why they were taking photos of the college, they immediately threatened the staffs, basing on which, the *defacto* complainant filed a complaint before the first respondent Police. It is submitted by learned counsel for the petitioner that he has not committed any offence as alleged by the prosecution, thereby, sought for quashing the FIR.

3. The case against the petitioner and others was registered on 29^h September, 2019, which is about three years and eleven months ago, still, charge sheet has not been filed. He further submitted that as per Section 468 (2) of Cr.P.C., the first respondent Police failed to file the charge sheet within a period of three years from the date of offence i.e 28.09.2019. The FIR was

<https://www.mhc tn.gov.in/judis> issued under Sections 448, 294(b) and 506 (1) of I.P.C.



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CRL.O.P.(MD)No.14640 of 2023

4. Heard both sides and perused the records.

5. Section 468 of Cr.P.C, there is a bar from taking cognizance if the charge sheet is not filed within the time specified therein. Section 468 of Cr.P.C. reads 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.

(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.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."



CRL.O.P.(MD)No.14640 of 2023

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6. Considering the time limit prescribed under Section 468 of Cr.P.C., it is to be examined as to whether the respondent Police can file charge sheet for the offence against the petitioner. The petitioner was charged with offence under Section 448 of I.P.C. The punishment for the said offence is imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both. The punishment for Section 294 (b) of I.P.C., is with imprisonment for a term which may extend to three months, or with fine, or with both. The punishment for Section 506 (1) of I.P.C. is for a term which may extend to two years or with fine or with both.

7. Therefore, the maximum punishment for any of the above offence is two years, thereby as per Section 468 (2) of Cr.P.C, the charge sheet should have been filed within three years from the date of occurrence. In the case on hand, three years have already been lapsed and the Police have not filed the charge sheet. Therefore, considering from any angle, FIR registered against the petitioner in Crime No.610 of 2019 will not sustain and therefore, accordingly, quashed.



CRL.O.P.(MD)No.14640 of 2023

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8. Accordingly, the Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petition is closed.

22.08.2023

NCC:yes/no

Index:yes/no

Internet:yes/no

tsg

To

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



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CRL.O.P.(MD)No.14640 of 2023

DR.D.NAGARJUN, J.

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CRL.O.P.(MD)No.14640 of 2023

22.08.2023