



Crl.O.P.(MD) No.15712 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **14.09.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.15712 of 2023
and
Crl.M.P.(MD)No.12487 of 2023

1.Anjali

2.Gokul

... Petitioners / Accused Nos.1 & 2

Vs.

1.The State, rep by
The Sub Inspector of Police,
K.Pudupatti Police Station,
Pudukottai District.

... 1st Respondent / Complainant

2.Mallika

... 2nd Respondent / Defacto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records in Crime No.143 of 2019 pending on the file of K.Pudupatti Police Station, Pududkkottai District and quash the same.

For Petitioner : Mr.A.Raja

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

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This petition is filed seeking quashment of FIR in Crime No.143 of 2019 on the file of the 1st respondent Police registered against the petitioners / Accused Nos.1 and 2 for the offences punishable under Sections 294(b) and 324 IPC.

2.The facts as per the records would go to show that the 1st petitioner said to have borrowed a sum of Rs.500/- from the 2nd respondent / defacto complainant. Due to some financial crisis the 1st petitioner could not repay the same. In respect of which, at about 06.00 p.m., on 07.12.2019 when the 2nd respondent / defacto complainant demanded the 1st petitioner to pay the money, the 1st petitioner said to have replied that she would repay the money within two days. However, the 2nd respondent has not satisfied with the same and during the conversation, the 2nd respondent abused the 1st petitioner with filthy language and hence, the 1st petitioner attacked her and caused life threat. Hence, the case has been registered in Crime No.143 of 2019 for the aforesaid offences.

3.Apart from other grounds, the major ground, on which the petitioners have sought for quashment of FIR, is that the respondent police



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could not file the charge sheet in respect of the offence committed in the year 2019, thereby there is a bar under Section 468 Cr.P.C., from taking cognizance.

4.The learned Additional Public Prosecutor for the 1st respondent, on the other hand, submitted that even though four years have been lapsed from the date of registration of the FIR, under Section 473 of Cr.P.C., the prosecution can seek for condonation of delay in filing the charge sheet and thereby, at this stage, the FIR cannot be quashed.

5.Heard both sides and perused the record.

6.While considering the application under Section 482 of Cr.P.C., the Courts are required to be very cautious in quashing the FIRs, because it is not safe and proper to throttle the investigation at the inception level itself instead of allowing the investigating agency to complete the investigation. However, whenever material placed before this Court to show that continuation of investigation is an abuse of process of law, this Court can certainly intervene and stop the proceedings.

7.The Hon'ble Supreme Court of India has laid down some guidelines for quashing the criminal proceedings by exercising inherent powers under



Section 482 Cr.P.C., in the case of ***State of Haryana vs. 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.



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(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 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."

8.Now, it is to be considered as to whether the case on hand falls in any one of the categories of the judgment cited above.

9.In the case on hand, the petitioner is charged under Sections 294(b) and 324 IPC. It is to be examined as to whether based on the contents of the FIR, a charge sheet can be filed against the petitioners.



10. Section 294(b) IPC., runs as under:-

“(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.”

11. Considering Section 468(2)(b) Cr.P.C., the charge sheet in respect of Section 294(b) IPC. should have been filed within one year from the date of offence.

12. Section 324 IPC., runs as under:-

“324. Voluntarily causing hurt by dangerous weapons or means —

Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”



13.Considering Section 468 (2)(c) Cr.P.C., the charge sheet in respect of Section 324 IPC should have been filed within three years from the date of offence.

14.Further, the punishment for the offence under Section 294(b) IPC is up to one year imprisonment or with fine or with both and the punishment for the offence under Section 324 IPC is up to three years imprisonment or with fine or with both. The maximum punishment that can be imposed for any of the above offence is three years.

15.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



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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."

16.In view of the above, since the charge sheet has not been filed even beyond three years of the alleged date of occurrence, the FIR can be quashed on the ground of limitation.

17.However, the learned Additional Public Prosecutor for the respondent Police submitted that there is a possibility for the respondent police to seek condonation of delay under Section 473 Cr.P.C.

18.Section 473 Cr.P.C. runs as under:-

“Extension of period of limitation in certain cases:
Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.”

19.Section 473 Cr.P.C. applies where the Police files charge sheet after expiry of limitation under Section 468 Cr.P.C. but, it does not mean that



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the Police can withhold the filing of the charge sheet any number of years, even after expiry of limitation. The benefit of Section 473 Cr.P.C. can be availed, while filing the charge sheet, but the Police cannot circumvent Section 468 Cr.P.C. on the ground that they filed condonation of delay petition under Section 473 Cr.P.C. Further, it is the discretion of the learned Judge concerned, whenever an application is filed under Section 473 Cr.P.C. to grant or refuse to condone the delay. Hence, the contention of respondent Police that since Section 473 Cr.P.C. is available, the FIR cannot be quashed on the basis of Section under 468 Cr.P.C., is not convincing.

20. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.143 of 2019 on the file of the 1st respondent Police is quashed. Consequently, connected Miscellaneous Petition is closed.

14.09.2023

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

Yuva



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DR.D.NAGARJUN. J.

Yuva

To

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

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