



WEB COPY



Crl.O.P.(MD)No.15317 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	01.09.2023
Delivered on	29.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.15317 of 2023
and Crl.M.P.(MD) No.12153 of 2023

1.Guru @ Gurunathan
2.Selva @ Selvakumar
3.Marimuthu

... Petitioners/
Accused 1 to 3

Vs.

1. The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.

... Respondent/Complainant

2. Muneeshwaran

... 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 392 of 2014 on the file of the first respondent police and quash the same as illegal as against the petitioner.

For Petitioner : Mr.R.Shanmuga Pandi

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

ORDER



Crl.O.P.(MD)No.15317 of 2023

WEB COPY

This petition is filed seeking quashment of FIR filed against the petitioners/accused 1 to 3 for the offences under Sections 294(b), 323 and 379 of IPC.

2. According to the prosecution, on 18.09.2014 when the defacto complainant returning to his house after casting his vote, the petitioners stated to have attacked him with stick and thereby caused injuries. Basing on a complaint given by the defacto complainant the first respondent has registered a case in Crime No.392 of 2014 for the offences under Sections 294(b), 323 and 379 of IPC.

3. It is submitted by learned counsel for the petitioners that the petitioners have not indulged in the alleged incident. Though the alleged incident took place on 18.09.2014, the first respondent police have not filed the charge sheet even after a lapse of eight years thereby submitted that taking cognizance for the alleged offences is hit by Section 468 of Cr.P.C.



Crl.O.P.(MD)No.15317 of 2023

4. Heard both sides and perused the record.

WEB COPY

5. The petitioners/accused were charged for three offences. The punishment for the offence under Section 294(b) of IPC is imprisonment for a term which may extend to three months; the punishment for the offence under Section 323 of IPC is imprisonment for a term which may extend to one year; finally, the punishment for the offence under Section 379 of IPC is imprisonment for a term which may extend to three years. Considering the above period of sentences that can be awarded in case the offences are proved against the petitioners/accused, the maximum sentence that can be awarded is three years for the offence under Section 379 of IPC.

6. Section 468 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.

(2) The period of limitation shall be—



Crl.O.P.(MD)No.15317 of 2023

(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.

7. Considering the above provisions, the charge sheet under Sections 294(b) and 323 of IPC, should have been filed within one year whereas, the charge sheet under Section 379 of IPC should have been filed within three years. The offences are committed on 18.09.2014, therefore, the charge sheet should have been filed on or before 17.09.2017. However, in the present case, the charge sheet has not been filed as of today which is beyond three years thereby taking cognizance for the offences are barred under Section 468 of Cr.P.C.

8. The Hon'ble Supreme Court has laid down the guidelines for exercising of inherent power under Section 482 of Cr.P.C. for quashing



Crl.O.P.(MD)No.15317 of 2023

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 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."

9. In view of the above principles laid down by the Hon'ble Apex Court, if the continuation of proceedings are barred by any statute or law, such proceedings required to be quashed. In the case on hand, taking cognizance under all the offences alleged against the petitioners are specifically barred under Section 468(2)(c) of Cr.P.C. Thereby all the charges levelled against the petitioners shall not sustain.

10. In the result, this criminal original petition is allowed and the proceedings in Crime No.392 of 2014 on the file of the first respondent, are hereby quashed. Consequently, connected miscellaneous petition is



closed.

WEB COPY



Crl.O.P.(MD)No.15317 of 2023

29.09.2023

Index : Yes / No
Neutral Citation: : Yes / No

PKN/mvs.



Crl.O.P.(MD)No.15317 of 2023

WEB COPY

- To
1. The Inspector of Police,
Bodinayakanur Rural Police Station,
Theni District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.15317 of 2023

DR.D.NAGARJUN,J

PKN/mvs.

Pre-delivery order made in
Crl.O.P.(MD)No.15317 of 2023

Dated: 29.09.2023