



Crl.R.C.(MD).No.1005 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 11.09.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1005 of 2023

and

Cr.MP(MD)No.13008 of 2023

Manithan

... Petitioner/Respondent/Accused

Vs.

Sub Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
Crime No.612/2015

... Respondent/Petitioner/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No.1421 of 2023 dated 13.04.2023 on the file of the Judicial Magistrate No.I, Padmanabhapuram, and set aside the same as illegal and consequently struck down numbering of the case in C.C.No.211 of 2023.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)



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ORDER

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This revision has been filed to set aside the order passed by the Judicial Magistrate No.I, Padmanabhapuram, in Crl.M.P.No.1421 of 2023, dated 13.04.2023.

2. The petitioner is the accused in Crime No.612 of 2015 on the file of the respondent police. According to the prosecution, the accused was working as a driver in the Kerala State Road Transport Corporation. He said to have drove a bus in a rash and negligent manner and dashed against a bike bearing Reg.No.TN-75-K-2880, which was driven by the defacto complainant with the pillion rider and caused injury to them. Hence, a complaint was lodged before the respondent police. The respondent police registered a case in Crime No.612 of 2015 for the offence under Sections 279, 337 and 304(A) of IPC. Due to Corona lock down and the transfer of Investigating Officer to some other place, the respondent police failed to submit the final report within time. They filed the final report with the delay of 2896 days before the Judicial Magistrate No.I, Padmanabhapuram, in Crl.M.P.No.1421 of 2023 and the same was allowed by the order dated 13.04.2023. Aggrieved by the same, the petitioner filed this revision.



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3. According to the petitioner, the reasons assigned in the petition in paragraph 5 is not sufficient to allow the inordinate delay of 2896 days. Even though, the learned trial Judge served notice to the respondent, the case was taken for hearing much earlier to the hearing date mentioned in the notice. Hence, it is the total violation of principle of natural justice.

4. In this case, the petitioner is said to have committed the offence under Sections 279, 337 and 304(A) of IPC. The occurrence took place on 10.07.2015. FIR was registered on the same day itself. As per the following relevant portion of the Hon'ble Constitution Bench judgment in the case of ***Sarah Mathew v. Institute of Cardio Vascular Diseases*** reported in ***AIR 2014 SC 448***, the registration of case was in time and hence, there was no question of limitation. The relevant portion is extracted hereunder:

51. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. We further hold that Bharat Kale [Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559 : 2004 SCC (Cri) 39] which is followed in Japani Sahoo



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[Japani Sahoov. Chandra Sekhar Mohanty, (2007) 7 SCC 394 : (2007) 3 SCC (Cri) 388] lays down the correct law. Krishna Pillai [Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121 : 1990 SCC (Cri) 646] will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC.

5. Hence, this Court concludes that the filing of the petition along with final report itself is not necessary. Therefore, there is no bar to take cognizance on the basis of the final report filed before the learned Judicial Magistrate. The learned Judicial Magistrate has also taken the case in C.C.No.211 of 2023.

6. In this case, this Court is satisfied with two reasons furnished by the Investigating Officer. One is concerned, transfer of the Investigating Officer. This is routinely happening in the department. Hence, this Court accepts the first reason. Thereafter, during the intervene period, there was COVID-19 lock down. This is also the acceptable one. It is well settled principle, the investigating agency come forward with *bona fide* reason to condone the delay 2856 days in accepting the final report, it is duty of the Court to condone the same. The trial



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Court accordingly, satisfied with the above *bona fide* reasons assigned by the Investigating Officer and in the interest of justice, condoned the delay of 2896 days in filing the final report.

7. It is settled principle, when the trial Court exercise its jurisdiction to condone the delay by accepting the bona fide reasons, the revision Court has no jurisdiction to interfere with the said discretion as held by the following portion of the Honourable Supreme Court in the case of **N. Balakrishnan v. M. Krishnamurthy** reported in **(1998) 7 SCC 123**,

Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse.



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8. In view of the above, this Court does not find no reason to interfere in the order passed by the learned trial Judge. Hence, the revision is liable to be dismissed by accepting the finding given by the learned trial Judge.

9. Accordingly, the impugned order passed by the Judicial Magistrate No.I, Padmanabhapuram, in Crl.M.P.No.1421 of 2023, dated 13.04.2023, is hereby confirmed and the Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

11.09.2023

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

- 1.The Judicial Magistrate No.I,
Padmanabhapuram
- 2.The Sub Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

dss

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