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CrI.O.P.(MD)No.16331 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	21.09.2023
Delivered on	29.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

CrI.O.P.(MD)No.16331 of 2023

Muthukumar

... Petitioner/
Accused No.5

Vs.

1. The Inspector of Police,
Kallikudi Police Station,
Thirumangalam Taluk,
Madurai District.
Crime No.162 of 2015.

... 1st Respondent/Complainant

2.K.Pandikaruppu

... 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.162 of 2015 under Sections 147, 148, 324, 427 IPC r/w.4 of Tamil Nadu Prohibition of Women Harassment Act, on the file of the first respondent police dated 22.08.2015 and quash the same as illegal.

For Petitioner : Mr.D.Balamuruga Pandi

For Respondents : Mr.E.Antony Sahaya Prabahar
for R1



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ORDER

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The accused No.5 in Crime No.162 of 2015 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 first respondent police failed to file charge sheet since August, 2015 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 22.08.2015, due to previous enmity between the family of the defacto complainant and the accused persons, the accused No.1 and his son, namely, Kannan, who is the accused No.2, have come to the house of the defacto complainant's sister and attacked her. Her sister escaped from the scene of occurrence and came to the defacto complainant's house. When the defacto complainant has questioned about the same, the accused persons have attacked the defacto complainant also. Therefore, the defacto complainant has given a complaint before the police. On the strength of the complaint, the police have registered a case in Crime No.162 of 2015 for the offences punishable under Sections 147, 148, 324, 427 IPC r/w



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Section 4 of Tamil Nadu Prohibition of Women Harassment Act.

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3. Learned counsel for the petitioner submitted that the petitioner has filed this application seeking quashment of FIR 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 Additional Public Prosecutor who has represented the first respondent police has fairly submitted that the petitioner is entitled for the benefit under Section 468 of Cr.P.C.

5. The FIR has been registered against the petitioner for the offences under Sections 147, 148, 324, 427 of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act.

6. Section 147 runs as under:-

“Whoever is guilty of rioting, shall be punished with imprisonment for either description for a term which may extend to two years, or with fine, or with both”.



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7. Section 148 IPC runs as under:-

"Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

8. Section 324 IPC runs as under:-

"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 a 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 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."

9. Section 427 IPC runs as under:-

Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or



upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

10. Section 4 of Tamil Nadu Prohibition of Women Harassment

Act runs as under:-

“Whoever commits or participates in or abets harassment of woman in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theater, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than ten thousand rupees.”

11. The maximum punishment can be imposed, if the case under Section 147 IPC is proved, as two years or with fine or with both and if the offence under Section 148 of IPC is proved, the maximum sentence that can be awarded is imprisonment for three years or with fine or with both. If the offence under Section 324 of IPC is proved, the maximum sentence that can be awarded is imprisonment for three years or with fine



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or with both. If the offence under Section 427 of IPC is proved, the maximum sentence that can be awarded is imprisonment for two years or with fine or with both, whereas, if the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act is proved, the maximum sentence that can be awarded is imprisonment for three years and with fine which shall not be less than Rs.10,000/-.

12. 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.

(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. "



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13. 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.

14. 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



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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."

15. 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 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.



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16. In the result, this Criminal Original Petition is allowed and the entire proceedings in Crime No.162 of 2015 pending on the file of the first respondent police are hereby quashed, insofar as the petitioner/accused No.5 is concerned.

29.09.2023

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



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To

1. The Inspector of Police,
Kallikudi Police Station,
Thirumangalam Taluk,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN, J.

ssb/jai

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Dated: 29.09.2023