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Crl.O.P.No.2449 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2449 of 2024

and

Crl.M.P.No.1742 of 2024

1.N.N.Vetrivel

2.N.N.Sakthivel

3.Baby @ M.Velumani

4.S.Sridharan

.. Petitioners

Vs.

1.The State Rep by
Inspector of Police,
Gobichettipalayam,
Erode District,
Cr.No.323 of 2021

2.Balasubramaniam

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Crime No.323 of 2021 on the file of Gobichettipalayam Police Station and quash the same.

For petitioners : Mr.D.Senthur Kugan

For R1 : Mr.A.Damodaran
Additional Public Prosecutor



ORDER

This quash petition has been filed to quash the FIR in Crime No.323 of 2021 pending investigation on the file of the 1st respondent.

2. When the matter came up for hearing on 07.02.2024, this Court passed the following order:

“Mr.A.Damodaran, learned Additional Public Prosecutor, takes notice for 1st respondent. Notice to the 2nd respondent returnable by four weeks. Private notice is also permitted.

2. In the instant case, an FIR was registered for offence under Section 294(b) and 323 of IPC. The Additional Public Prosecutor submitted that the final report was filed before the learned Judicial Magistrate, Gobichettipalayam only on 30.08.2023. The final report is yet to be taken cognizance. The maximum punishment for the offence for which the FIR has been registered is one year. Hence, the final report ought to have been filed within one year as mandated under Section 468 (2) (b) of Cr.PC. However, the final report has been filed after nearly two years. Therefore, it is barred under Section 468 of Cr.PC. A prima facie case has been made out and hence, there shall be a direction to the learned Judicial Magistrate, Gobichettipalayam, not to take cognizance of the final report filed by the respondent police, until further orders.

3. Post this case on 06.03.2024.”



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3.The matter was posted for hearing after service of notice to the 2nd respondent. The learned Additional Public Prosecutor appearing on behalf of the 1st respondent based on the instructions from the 1st respondent submitted that final report was filed before the concerned jurisdictional Magistrate Court only on 30.08.2021 and it was also returned back.

4.In the considered view of this Court, as already observed in the earlier order dated 07.02.2024, the final report ought to have been filed within a period of one year as mandated under Section 468 (2) (b) of Cr.P.C. Thereafter, it will be a bar for the concerned Court to take cognizance. As on date, there is no final report available before the Court below. Even if the Court below wants to take cognizance of the final report, it has to necessarily follow the procedure under Section 473 of Cr.P.C and the accused persons must be put on notice. On the facts of the present case, there is no need to exercise jurisdiction under Section 473 of Cr.P.C., since, the dispute between the parties pertained to a pathway.

5.In view of the above, FIR in Crime No.323 of 2021 pending investigation on the file of the 1st respondent is quashed. Accordingly,



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this Criminal Original Petition is allowed. Consequently, the connected
Miscellaneous Petition is closed.

06.03.2024

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

To

1.The Judicial Magistrate,
Gobichettipalayam.

2.The State Rep by
Inspector of Police,
Gobichettipalayam,
Erode District,
Cr.No.323 of 2021.

3.The Public Prosecutor,
Madras High Court,
Chennai.

N.ANAND VENKATESH, J.



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