



Crl.O.P.(MD) No.5615 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.5615 of 2021

and

Crl.M.P.(MD) No.3215 of 2021

Mohamed Hanifa @
Tenkasi Hanifa

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Thirumangalam Town Police Station,
Madurai.
(In Crime No.412 of 2013)

2.S.Kathiresan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the charge sheet in C.C.No.7 of 2021 on the file of the Judicial Magistrate Court, Thirumangalam and quash the same as illegal.

For Petitioner : Mr.S.M.A.Jinnah

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

Seeking to quash the final report filed by the police before the Judicial Magistrate Court, Thirumangalam in C.C.No.7 of 2021, the present Criminal Original Petition is filed.

2. The case of the prosecution in a nutshell is as follows:

(a) The petitioner/accused on an earlier occasion was arrested in connection with Crime No.237 of 2011 of Thirumangalam Taluk Police Station for the offences punishable under Sections 307 of IPC read with Sections 4 & 5 of Explosive Substance Act, 1908 and was remanded to judicial custody. On 16.07.2013, the second respondent, Special Sub-Inspector of Police, III Battalion, Madurai District Armed Force, and other police personnel brought the petitioner/accused and one Musthafa from the prison with police protection for producing them before the Judicial Magistrate, Thirumangalam for extension of remand in a Van. The van was parked inside the campus of the Judicial Magistrate Court and in order to ensure safety of the prisoners, the entire sequence was videographed by the police. In the video coverage, the petitioner's wife and mother-in-law were also seen



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standing near the van which infuriated the petitioner who picked up quarrel with the policeman who was taking video. He also abused him in filthy language and threatened him with dire consequences. Thus, he prevented the police official from discharging his duty.

(b) Therefore, the second respondent lodged a complaint with the Inspector of Police, Thirumangalam Town Police Station which came to be registered as F.I.R. in Crime No.412 of 2013 for the offences punishable under Sections 294(b), 353, 506(i) of IPC. After completing investigation, the police filed a final report in C.C.No.7 of 2021 before the Judicial Magistrate Court, Thirumangalam for the aforesaid offences. The petitioner was also enlarged on bail.

3. Mr.S.M.A.Jinnah, learned counsel for the petitioner would contend that though the alleged occurrence took place on 16.07.2013, the final report was filed beyond the period of limitation and therefore, the cognizance taken by the Judicial Magistrate, Thirumangalam on 23.01.2021 is hit by Section 468 of Cr.P.C. His contention is that the petitioner has not committed any offence as alleged by the prosecution as he was under the custody of the second respondent.



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WEB COPY 4. Mr.K.Sanjay Gandhi, learned Government Advocate (Crl. Side)

appearing for the first respondent police would contend that in the instant case, the final report was filed before the Judicial Magistrate Court, Thirumangalam on 11.07.2016 and therefore, it was filed within the period of limitation. His therefore contention is that since the petitioner absconded, a non-bailable warrant was issued against him by the Judicial Magistrate, Thirumangalam and therefore, he cannot maintain the present Criminal Original Petition.

5. A perusal of the records shows that the final report was taken on file by the Judicial Magistrate, Thirumangalam on 23.01.2021. It is not known as to why the Judicial Magistrate kept the final report pending on its file when it was filed as early as 11.07.2016 i.e., within the period of limitation. Initially, the final report was returned by the Judicial Magistrate. However, it was taken on file only on 23.01.2021.

6. Moreover, in the instant case, it is contended by the prosecution that the petitioner is not appearing before the trial court since 17.05.2022, as a result of which, a non-bailable warrant was issued against him and



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therefore, the present Criminal Original Petition is liable to be dismissed.

The statements of witnesses recorded by the police under Section 161(3) Cr.P.C. *prima facie* shows the offences committed by the present petitioner under Sections 294(b), 353 and 506(i) of IPC.

7. In the facts and circumstances, this Criminal Original Petition is dismissed as devoid of merits. Consequently, connected Miscellaneous Petition is closed.

09.02.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
JEN

To

- 1.The Judicial Magistrate,
Thirumangalam.
- 2.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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