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CrI.O.P.(MD)No.8414 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.8414 of 2022

and

CrI.M.P.(MD).No.5669 of 2022

1.Balu

2.Murugan

... Petitioners/A1 and A2

Vs.

1.The State Rep. by

The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.
Crime No.89 of 2021

2.Pathmavathi

Deputy Block Development Officer,
Vembakottai Union,
Additional Static Surveillance Team-5,
204-Sattur Assembly Constituency,
Virudhunagar District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in pursuant to the FIR in Crime No.89 of 2021 on the file of the first respondent, dated 22.03.2021 and quash the same.

For Petitioners

For R-1

For R-2

: Mr.S.T.Sasidharan Tamilkani

: Mr.B.Nambiselvan

Additional Public Prosecutor

: No Appearance



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ORDER

This petition has been filed seeking to quash the FIR in Crime No.89 of 2021 on the file of the first respondent Police.

2.The case of the prosecution is that on 21.03.2021, the defacto complainant and other officials were patrolling their duty near Vembakottai to Thulukkankurichi Road, at about 12.20 a.m, they intercepted the petitioners' vehicle bearing Registration No.TN-22-CZ-1252 Xylo and searched the vehicle and found 2000 notices with printed cooker labels belongs to AMMK political party. Thereby, the first respondent police registered a case in Crime No.89 of 2021 against the petitioners for the offences under Sections 4AA(1a) and 4AA(4) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

3.The learned counsel for the petitioners would submit that though the case in Crime No.89 of 2021 was registered on 22.03.2021, till date, the charge sheet has not been filed and there was a delay in filing the charge sheet which is barred under Section 468(2) of Cr.P.C. He would further submit that in respect of the offence committed by the petitioners under Sections 4AA(1a) and 4AA(4) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, the maximum punishment is



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three months, a fine of up to 200 rupees, or both. The first respondent police ought to have filed a charge sheet within a period of one year, ie., 23.03.2022, but even after a lapse of one year, charge sheet has not yet filed. He would further submit that the issue arose in the present case is no longer *res integra* and it is covered by the Judgment of this Court in the case of ***A.Kaliyaperumal and others Vs. the Superintendent of Police, Cuddalore, Cuddalore District and Others*** in Crl.O.P.Nos.433 and 4543 of 2024, dated 24.01.2024.

4.The learned Additional Public Prosecutor appearing on behalf of the first respondent Police would submit that the present quash petition was filed in the year 2022. He would further submit that since this Court has granted an order of interim stay on 29.04.2022, thereby, the charge sheet has not yet filed till date. Hence, he prayed for dismissal of the petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is seen that the date of occurrence is 21.03.2021 whereas the FIR was registered on 22.03.2021. As per Sections 4AA(1a)



and 4AA(4) of Tamil Nadu Open Places (Prevention of Disfigurement)

Act, 1959, the maximum punishment is three months, a fine of up to 200 rupees, or both and in the present case, one year period was expired on 22.03.2022. Even thereafter, the first respondent police has not completed the investigation, for which, the petitioners obtained interim stay on 29.04.2022. Hence, the present case is barred by Section 468 (2) Cr.P.C., which reads as follows:

"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.

(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. Therefore, the maximum punishment for 4AA(1a) and 4AA(4) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, is three months, a fine of up to 200 rupees, or both thereby, as per Section 468(2) I.P.C, the charge sheet should have been filed within three years from the date of occurrence.

8. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in *Mrs. Sarah Mathew Vs. The Institute of Cardio Vascular Diseases, Dr.K.M. Cherian and others* ((2014) 2 SCC 62). In the case on hand, three years have already been lapsed and the respondent Police have not filed the charge sheet, till date. Therefore, considering from any angle, FIR registered against the petitioner will not sustain and therefore, accordingly, quashed.



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9.Accordingly, the Criminal Original Petition stands disposed of.

Consequently, the connected miscellaneous petition is closed.

27.03.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

Sji

To

1.The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

Sji

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