



Crl.O.P.(MD)No.21968 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.21968 of 2022

Abdul Bari

... Petitioner

Vs.

1.State rep.by

The Inspector of Police,
Oddanchatram Police Station,
Oddanchatram,
Dindigul District.
(In Crime No.22 of 2014)

2.The Special Sub Inspector of Police,

Q Branch CID,
Dindigul.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the FIR in Crime No.22 of 2014 dated 24.08.2014 registered on the file of the first respondent and quash the same as illegal in respect of the petitioner.

For Petitioner : Mr.S.Sankarapandian



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For Respondents

: Mr.B.Nambiselvan,
Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to quash the the FIR in Crime No.22 of 2014 dated 24.08.2014 registered on the file of the first respondent.

2.The case of the prosecution is that A1 was found in illegal possession of explosive substances and during enquiry he confessed that he brought the same from the petitioner through A2. Hence, a case was registered in Cr.No.22 of 2014 for the offences punishable under Section 286 IPC and Sections 9(B)1(b), 3(b) of the Explosive Act, 1884. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner submitted that FIR was registered in the year 2014 and maximum punishment for the offence under Section 9(3)(b) of the Explosives Act, 1884 is three years.



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He further submitted that the respondent Police ought to have filed a charge sheet within the period of three years but, even after lapse of three years, charge sheet has not yet filed, which is barred under Section 468(2) of Cr.P.C. He would further submit that the issue arose in the present issue 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 for the respondents admitted that charge sheet is not yet filed in this case.

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

6.It is seen that FIR came to be registered in Crime No.22 of 2014 dated 24.08.2014. However, till date, the charge sheet has not yet filed. Hence, the present case is barred by Section 468 (2) Cr.P.C. Section 468 of Cr.P.C., reads 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.

(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."



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7. Therefore, the maximum punishment for Section 379 IPC is three years or with fine or with 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.Chcrian 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.

9. In the result, this criminal original petition is allowed.

25.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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M.DHANDAPANI,J.

gns

- 1.The Inspector of Police,
Oddanchatram Police Station,
Oddanchatram,
Dindigul District.
- 2.The Special Sub Inspector of Police,
Q Branch CID,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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