



Crl.O.P.No.3447 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3447 of 2025
and Crl.M.P.No.2268 of 2025

Dhanakanthan

... Petitioner

Vs

1. The State By,
The Inspector of Police,
Cuddalore O.T Police Station,
Cuddalore.
Cr.No.236 of 2018.

2. Venkatesan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the FIR in Cr.No.236/2018 on the file of the Inspector of Police, Cuddalore OT Police Station, Cuddalore in respect of the petitioner herein is concerned and to quash the same.

For Petitioner : Mr.R.Thamarai Selvan
For R1 : Mr.R.Vinothraja
Government Advocate (Crl.side)

ORDER



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This Criminal Original Petition has been filed to quash the FIR in Crime No.236 of 2018, on the file of the first respondent.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record.

3. The case of the prosecution is that the defacto complainant is a Prison Officer in Cuddalore and he had lodged a complaint stating that one of the accused in the prison was using mobile phone. On inspection, it was found that the petitioner was found in possession of mobile phone in the prison hiding in his left leg and the same was seized. Hence, the complaint.

4. It is seen that the sentence for the offence under Section 42 of the Prisoners Act is extracted hereunder:-

“ 42. Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

- Whoever, contrary to any rule under Section [59] [Substituted by A.O.1937, for “60”] introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited articles,



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and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison, and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner, and whoever abets any offence made punishable by this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.”

5. Accordingly, the maximum punishment is six months. It is relevant to extract Section 468 of Cr.P.C 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—

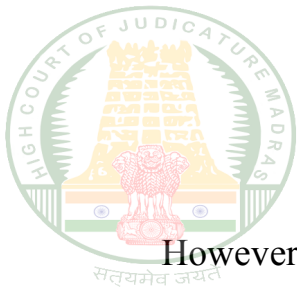
(a) six months, if the offence is punishable with fine only;

(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.”

6. Accordingly, the first respondent ought to have filed a final report within a period of six months from the date of receipt of the registration of FIR.



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However, so far no charge sheet has been laid from the date of registration from the year 2018. Therefore, it is clearly barred by limitation.

7. In view of the above, the impugned FIR cannot be sustained and is liable to be quashed. Accordingly, the FIR in Crime No.236 of 2018, on the file of the first respondent, is hereby quashed.

8. In the result, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

10.02.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn



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To

1. The Inspector of Police,
Cuddalore O.T Police Station,
Cuddalore,
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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