



Crl.O.P.No. 18187 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.18187 of 2024 and
Crl.M.P.No.10774 of 2024

1.Sadiq Basha

2.Lailathu Nisha

3.Sheik Mohammed

... Petitioners

Vs.

1.State rep by Sub-Inspector of Police,
M3, Puzal Police Station,
Thiruvallur District.
(Crime No.842 of 2022)

2.Elango

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crime No.842 of 2022 on the file of the first respondent and quash the same.

For Petitioners : Mr.G.Murugendran



Crl.O.P.No. 18187 of 2024

WEB COPY

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)

ORDER

This petition has been filed to quash the FIR in Crime No. 842 of 2022 on the file of the first respondent.

2. The case of the prosecution is that on a complaint lodged by the second respondent, the first respondent registered the FIR in Crime No. 842 of 2022 for the offences under Section 42 of the Prisons Act, 1894 and Sections 8C and 22A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act, 1985”), alleging that during an inspection of the prison, small plastic packets containing white powder were found in the possession of the first petitioner and the same were handed over by the second and third petitioners.

3. The learned counsel for the petitioners would submit that the



Crl.O.P.No. 18187 of 2024

WEB COPY

FIR was registered on 12.11.2022. The offence under Section 42 of the Prisons Act, 1894, is punishable with a maximum sentence of three months imprisonment. The offences under Sections 8C and 22A of the NDPS Act, 1985 are punishable with a maximum sentence of one year imprisonment. Despite the completion of six months from the registration of the FIR, the first respondent failed to complete the investigation and file the final report. Therefore, after the expiration of six months, the Trial Court cannot take cognizance of the matter, as it is barred by limitation.

4. The learned Government Advocate (crl.side), however, submits that the first respondent, after completing the investigation in Crime No. 842 of 2022, had filed the final report as early as on 30.05.2023. The report is now pending before the Trial Court for taking cognizance. Therefore, the prayer sought in this petition has become infructuous and the petition should be dismissed.

5. Heard both sides and perused the materials placed on record.



Crl.O.P.No. 18187 of 2024

WEB COPY

6. Section 468 of the Criminal Procedure Code (Cr.P.C.) lays down the period of limitation for taking cognizance of an offence. It is relevant to extract Section 468 of Cr.P.C.:

“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 purpose 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. The learned counsel for the petitioner would submit that the limitation for taking cognizance of an offence punishable with a sentence



Crl.O.P.No. 18187 of 2024

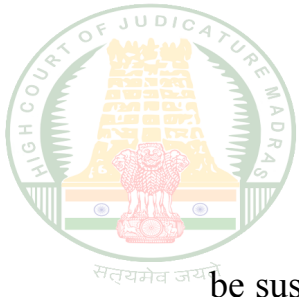
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of one year is six months. As such, the first respondent ought to have completed the investigation and filed the final report within six months from the date of registration of the FIR.

8. In the case on hand, though the first respondent completed the investigation and filed the final report on 30.05.2023, it was beyond the statutory period of six months. After the expiration of this period, the first respondent is barred from further investigation. As per Section 167(5) of the Cr.P.C., if the investigation is not completed within six months from the date of the registration of the FIR, the investigating officer is mandated to cease further investigation. Consequently, the Magistrate cannot take cognizance of the offence beyond the period of six months if the offence is punishable with a sentence not exceeding one year.

9. Therefore, the continued investigation and any subsequent proceedings after the final report were filed beyond the prescribed limitation period constitute a clear abuse of the process of law.

10. In view of the above, the FIR in Crime No. 842 of 2022 cannot



Crl.O.P.No. 18187 of 2024

WEB COPY

be sustained and it is liable to be quashed. Accordingly, the FIR in Crime No. 842 of 2022 is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

12.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk

To

- 1.The Sub-Inspector of Police,
M3, Puzal Police Station,
Thiruvallur District.
2. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No. 18187 of 2024

G.K.ILANTHIRAIYAN, J.

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WEB COPY



Crl.O.P.No. 18187 of 2024

Crl.O.P.No.18187 of 2024 and
Crl.M.P.No.10774 of 2024

12.03.2025