

CrI.O.P.(MD)No.8319 of 2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2025

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P(MD)No.8319 of 2025
and CrI.M.P(MD).Nos.6371 and 6372 of 2025

1.Karthikeyan
2.Amudhavalli
3.Ramalingam

... Petitioners

Vs

1.State of Tamil nadu, rep., by
The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
Crime No.489 of 2015

2.S.Kalimuthu

... Respondents

PRAYER: Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the case in C.C.No.253 of 2022 on the file of the learned Judicial Magistrate No.II, Kodaikanal and quash the same.

For Petitioners : Mr.S.Ramasamy

For R1 : Mr.A.S.Abul Kalaam Azad
Government Advocate (crl.side)



ORDER

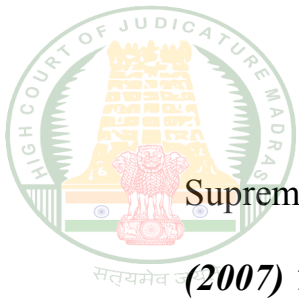
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This application has been filed by the petitioners seeking to quash the proceedings in C.C.No.253 of 2022 pending on the file of the learned Judicial Magistrate No.II, Kodaikanal.

2. The learned counsel appearing for the petitioners mainly contended that the offences alleged against the petitioners are not made out; and in this case, FIR was registered as early as on 07.11.2015, but the first respondent filed a final report before the Court below only on 16.05.2022 and hence, the case is barred by limitation, but the Court below failed to consider this aspect and taken cognizance of the case, which is liable to be quashed.

3. Heard the learned Government Advocate (CrI. Side) appearing for the first respondent.

4. Delay in filing the final report is not a ground to quash FIR, when the nature of offence and other relevant circumstances do not warrant so. Further, a crime never dies and reaches its logical end either in acquittal or conviction, which was considered in detail manner by the Hon'ble



Supreme Court in ***Japani Sahoo v. Chandra Sekhar Mohanty*** reported in ***(2007) 7 SCC 394***, wherein it has been held as follows:

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“14. The general rule of criminal justice is that a crime never dies. The principle is reflected in the well-known maxim nullum tempus aut locus occurrit regi (lapse of time is no bar to Crown in proceeding against offenders). The Limitation Act, 1963 does not apply to criminal proceedings unless there are express and specific provisions to that effect, for instance, Articles 114, 115, 131 and 132 of the Act. It is settled law that a criminal offence is considered as a wrong against the State and the society even though it has been committed against an individual. Normally, in serious offences, prosecution is launched by the State and a court of law has no power to throw away prosecution solely on the ground of delay.”

5. The Constitution Bench of Hon'ble Supreme Court in ***Sarah Mathew v. Institute of Cardio Vascular Diseases***, reported in ***AIR 2014 SC 448*** has clarified as to how the limitation period is to be computed under Section 468 of CrPC, as under:

“51. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance.”



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6. It would be relevant to refer the order of this Court in ***Abiganesh Vs The State of Tamil Nadu*** [CrIOP(MD)No.17860 of 2024, dated 21.10.2024], wherein the words “institution of prosecution” have been interpreted in a wide manner and the relevant portions read as follows:

“10. The word “prosecution” has not been defined anywhere in the Code of Criminal Procedure and a Division Bench of Allahabad High Court in Suneel Kumar Singh Vs. State of U.P. in CrI.A.No.724 of 2017 dated 18.02.2019, has observed as follows; “The prosecution has not been defined specifically in the light of proviso to Section 24(8) Cr.P.C. The meaning of word 'prosecution' as defined in Webster Dictionary, 3rd Edition is as follow; "the carrying out of a plan, project, or course of action to or toward a specific end." In view of the aforesaid definition the 'end' for which a plan or project is carried out is called prosecution. In respect of proviso to Section 24(8) Cr.P.C. prosecution in respect of an offence begin with putting the law into motion by any individual or sufferer of crime. The 'end' in a prosecution within the meaning of proviso to sub-section 8 of section 24 Cr.P.C. would be adjudication of guilt of an offender who is charged with commission of an offence in accordance with procedure established by law in a court constituted under this code. So the prosecution starts with giving information of commission of crime and continued during investigation or inquiry, trial of offender and if any appeal is filed finally end by an order passed in appeal.



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11. Considering the above, it can easily be inferred that the prosecution starts with giving information of commission of crimes. As rightly contended by the Government Advocate (Criminal Side), the words “institution of prosecution” used in Sarah Mathew's case cannot be limited to the private complaint cases.”

7. After filing a private complaint, the complainant has no further role to play and it is solely the court's responsibility to take cognizance and proceed. This applies to the cases instituted through an FIR as well. When an informant diligently lodges an FIR within the limitation period, the police, as the statutory authority, take over the responsibility for registration and investigation, over which, the complainant / informant has no control. Therefore, the complainant / informant should not be penalised for the delay in filing the final report.

8. This Court is of the view that institution of prosecution, for the purposes of Section 468 Cr.P.C., refers to the date of filing the complaint or registering the FIR. Consequently, if the complaint or FIR is filed within the prescribed limitation period, the proceedings cannot be deemed barred by Section 468 merely because the order of cognizance or issuance of process occurs on a subsequent date.



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9. In the light of the above discussion, this Court is not inclined to entertain the ground of limitation raised by the petitioners. Apart from that though the petitioners have raised several other grounds, however, this Court is of the opinion that it can be appreciated only during the trial. Therefore, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all these grounds before the trial Court, during trial. Consequently, connected miscellaneous petitions are closed.

17.06.2025

NCC :Yes/No
Index:Yes/No
Rmk

To

- 1.The Judicial Magistrate No.II, Kodaikanal.
- 2.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI. J.

Rmk

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