

CRL OP(MD) No.3216 of 2024 etc, batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 16 .05.2025

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

**CRL OP(MD)Nos. 3216, 3093, 3187
11019, 3010 and 8636 of 2024
and Crl Mps**

in CrIOP(MD)No.3216 of 2024

Anandharaj @ Anantharaja

.... Petitioner

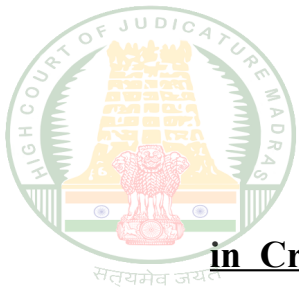
Vs

1.State Rep by
The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
[Crime No.123 of 2021]

2.Krishnamoorthi

... Respondents

Prayer : Petition filed under Section 482 of CrPC to call for the records relating to the FIR in Crime No.123 of 2021 dated 02.04.2021 on the file of the respondent police and to quash the same as against this petitioner alone.



CRL OP(MD) No.3216 of 2024 etc, batch

in CrIOP(MD)No.3093 of 2024

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K.V.Kalaiselvan

.... Petitioner

Vs

1.The State of Tamil Nadu,
represented by The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
[Crime No.190 of 2021]

2.Janakiraman

... Respondents

Prayer : Petition filed under Section 482 of CrPC to call for the records pertaining to the impugned FIR in crime No.190 of 2021 pending on the file of the 1st respondent police and to quash the same as against the petitioner.

in CrIOP(MD)No.3187 of 2024

Rajesh

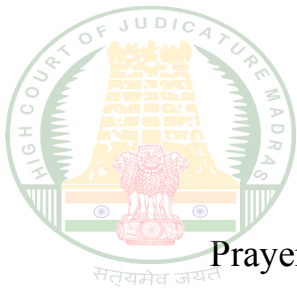
.... Petitioner

Vs

1.The State of Tamil Nadu,
The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District,
[Crime No.123 of 2021]

2.Krishnamoorthi

... Respondents



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Prayer : Petition filed under Section 482 of CrPC to call for the records relating to the FIR in crime No.123 of 2021 dated 02.04.2021 on the file of the 1st respondent police and to quash the same as against the petitioner.

in CrIOP(MD)Nos.11019 of 2024

1.Arul Raj

2.Rajagopal

.... Petitioners

Vs

1.The Inspector of Police,
Thiruvengampet Police Station,
Sivagangai District.
[Crime No.14 of 2020]

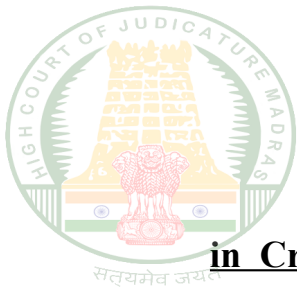
2.Arockiasamy

3.The Director General of Police [HOPF],
Chennai.

[R3 is suo motu impleaded vide order
dated 22.07.2024]

... Respondents

Prayer : Petition filed under Section 482 of CrPC to call for the records in connection with the Crime No.14 of 2020 on the file of the 1st respondent Police and quash the same.



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in CrIOP(MD)Nos.3010 of 2024

1.Dhanalakshmi
2.Karuppusamy

.... Petitioners

Vs

1.The State through
the Sub-Inspector of Police,
Sinhurpatti Police Station,
Madurai District.
[Crime No.132 of 2011]

2.Navaneetharaman

... Respondents

Prayer : Petition filed under Section 482 of CrPC to call for the records relating to the case in CC.No.451 of 2022 and all the connected proceedings on the file of the Judicial Magistrate, Thirumangalam and quash the same as illegal.

in CrIOP(MD)No.8636 of 2024

1.Thanigai Arasu

2.Natarajan

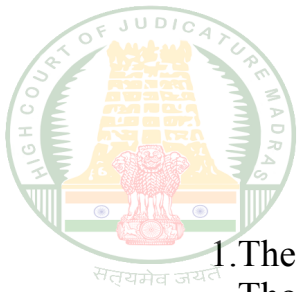
3.Titus

4.Paul Singh

5.Thatchana Moorthi

.... Petitioners

Vs



CRL OP(MD) No.3216 of 2024 etc, batch

1.The Inspector of Police,
Thoothukudi Central Police Station,
[Crime No.118 of 2021]

2.Rajapandian

... Respondents

Prayer : Petition filed under Section 482 of CrPC to call for the records in STC.No.274 of 2024 pending before the Judicial Magistrate II, Thoothukudi, Thoothukudi district and quash the same against the petitioners / accused.

For Petitioner : Mr.J.Selvam
in CrI.OP(MD)No.3010 of 2024
: Mr.A.Manikandan
in CrI.OP(MD)No.3216 & 3187 of
2024
: Mr.S.Venkatesan
in CrI.OP(MD)No.3093 of 2024
: Mr.KA.Ramakrishnan
in CrI.OP(MD)No.8036 of 2024
: Mr.S.M.Sanjay
in CrI.OP(MD)NO.14 of 2024
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor
in all petitions.
: Mr.Niranjana S.Kumar
for Election Commission

COMMON ORDER

Since the issue involved in all these cases are similar in nature all these cases are tagged together and disposed of by this common order.



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2.The criminal original petitions in CRL OP(MD)Nos. 3216, 3093, 3187 and 11019 of 2024 are filed to quash the FIR registered as against the petitioners / accused in the respective crime numbers on the ground that the final report in those cases have not yet been filed even after the time limit prescribed under the Criminal Procedure Code.

3.The main contention of the petitioners is that the cases registered against the petitioners are pending for long time at the investigation stage without final reports being filed. Therefore, they have filed these petitions that even after the prescribed time limit, the final reports have not been filed by the investigating agency and hence the FIRs registered as against them are liable to be quashed on the ground of non-filing of the final report as per Section 468 CrPC. It is their further contention that Section 468 CrPC bars taking cognizance of an offence, if on the date of taking cognizance, the period prescribed under Section 468 of CrPC has expired.

4.The learned Additional Public Prosecutor appearing for the respondent Police submits that the final report in these cases are yet to be filed.



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5.It appears that the final reports have not been filed in the cases, even after the expiry of the time limit prescribed under Section 468 of the Criminal Procedure Code and the case are still pending at the stage of investigation. The allegation against the petitioners is that they have bribed the voters during the election to influence them. The case has been registered as against them under Section 171(E) IPC.

6.It would be relevant to refer to Sections 171 (B) and 171 (E) of IPC, which reads as under:

“171B. Bribery —(1) Whoever—

i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right; commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.



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(2) *A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.*

(3) *A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.*

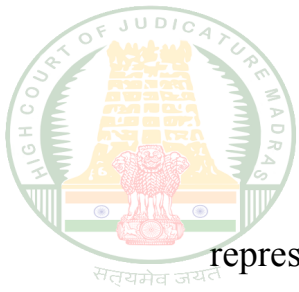
... ..

171E. Punishment for bribery - *Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:*

Provided that bribery by treating shall be punished with fine only.

Explanation — "Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision."

7. Democracy is the life line of our constitution. The citizens are empowered in the democracy to exercise their power to elect their



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representatives among themselves. It is the Government of the people, by the people and for the people. We are proudly declaring that we are the largest democratic country in the world. However, of late, gratifications are being made to the electors in the form of money, food, prizes, etc. In fact, the cases reported for distribution of money / gift to the voters are raising in every election. The amounts recovered during every elections are alarming and it denotes that the very purpose and object of democracy is defeated by the rich and powerful. This would demolish the very basic structure and it would ultimately lead to a form of Monarchy, where money would decide the ruler. This can be curtailed only by an effective prosecution as against those who are indulging in such activities.

8. 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.”

9.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.”



10.It would be relevant to refer the order of this Court in

Abiganesh Vs The State of Tamil Nadu [CrlOP(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 Crl.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



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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.

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.”

11.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.

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12.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.

13.In the light of the above discussion, though the writ petitions have been filed to quash the FIR on the ground of limitation, considering the grave nature of offence and the fact that FIRs have been registered within the prescribed limitation provided under Section 468 CrPC, this Court is not inclined to quash the FIRs and this Court directs the respective respondent police to file the final report in the aforesaid crime numbers forthwith, if not already filed.

Accordingly, CrIOP(MD)Nos.3216, 3093, 3187 and 11019 of 2024 are disposed as above.

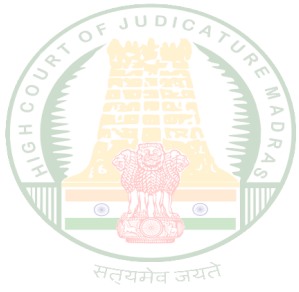


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14.The criminal original petition in CrIOP(MD)No.8636 of 2024 is filed challenging the proceedings pending on the file of the Judicial Magistrate Court II, Thoothukudi, in STC.No.274 of 2024 that the final report has been filed after expiry of the limitation period and without filing the delay condonation petition. However, the trial Court has mechanically taken the final report on file.

15.The learned Counsel for the petitioner submits that the final report in this case has been filed after expiry of the limitation period of one year as prescribed under Section 468 CrPC. However the final report has been taken on file by the learned Judicial Magistrate, without any application filed by the respondent police to condone the delay in filing the final report and therefore, the above proceedings are liable to be quashed.

16.The learned Additional Public Prosecutor appearing for the State submits that even though the final report is filed belatedly and no application for condonation of delay is filed, the learned Judicial Magistrate can still take cognizance, considering the nature of offence.



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17.It is a case of bribe to the voters during the election. This offence is serious in nature. Therefore, this Court is not inclined to accept the contention of the petitioner that the final report has been filed beyond the limitation and no separate application has been filed to condone the delay. Mere delay in filing the final report is not a ground to quash the proceedings, 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 by the Hon'ble Supreme Court in *Japani Sahoo's* case cited supra.

Accordingly, this criminal original petition in CrIOP(MD)No.8636 of 2024 is dismissed.

18.The criminal original petition in CrIOP(MD)No.3010 of 2024 is filed to quash the proceedings pending against the petitioners in CC.No.451 of 2022 on the file of the Judicial Magistrate, Thirumangalam that the final report has been filed after a period of 10 years and however this delay has been condoned by the Judicial Magistrate.



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19.The learned Counsel for the petitioner submits that the final report in this case has been filed after a period of 10 years, beyond the limitation period prescribed under Section 468 CrPC. However the final report has been taken on file by the learned Judicial Magistrate by condoning this huge delay. He further submits that the learned Judicial Magistrate should not have taken cognizance of the offence under Section 188 IPC unless a private complaint is made by the government servant and therefore, the above proceedings are liable to be quashed.

20.The learned Additional Public Prosecutor appearing for the State submits that even though the final report was filed belatedly, it was filed with an application to condone the delay. The learned Judicial Magistrate after satisfying with the reasons for the delay has condoned it and took cognizance of the same.

21.The case was registered against the petitioner for the offence under Sections 171 (E) & 188 IPC r/w 123 RPA. It is a case of distributing cash to the voters during the election. This offence is serious in nature.



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22.Insofar as the offence under Section 188 IPC is concerned, it is relevant to refer to Section 195 of CrPC and the same is extracted as under:

“Section 195(1) -

(1)No Court shall take cognizance -

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860)

...

except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.”

23.In the light of Section 195(1) (a) of CrPC, the Judicial Magistrate has no jurisdiction to take cognizance of offence under Section 188 of IPC, unless a private complaint is filed by the public servant. In this case, the respondent has not placed any material to show that private complaint has been filed by the public servant. Therefore, the charge under Section 188 IPC is hereby quashed.



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24. Insofar as the other charges are concerned, this Court is not inclined to accept the contention of the petitioner that the final report has been filed beyond the limitation, since the court after being satisfied with the reasons for the delay, has condoned the delay and taken the final report on file in the interest of justice.

25. In view of the above discussion and also in view of the decision of the Hon'ble Supreme Court in *Sarah Mathew* cited supra, this Court is not inclined to interfere with the other charges. Accordingly, this criminal original petition in CrIOP(MD)No.3010 of 2024 is partly allowed. Consequently connected miscellaneous petitions are closed.

16.05.2025

DSK

To

1. The Judicial Magistrate, Thirumangalam
2. The Judicial Magistrate II, Thoothukudi,
3. The Judicial Magistrate II, Sivakasi
4. The Judicial Magistrate II, Tanjore
5. The Judicial Magistrate, Devakottai

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6.The Director General of Police [HOPF],
Chennai.

7.The Sub-Inspector of Police,
Sinhurpatti Police Station,
Madurai District.

8.The Inspector of Police,
Thoothukudi Central Police Station

9. The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.

10.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

11.The Inspector of Police,
Thiruvengampet Police Station,
Sivagangai District.

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



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B.PUGALENDHI,J

DSK

ORDER IN

**CRL OP(MD)Nos. 3216, 3093, 3187
11019, 3010 and 8636 of 2024**

Date : 16.05.2025