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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.11.2024

Pronounced on : 15.05.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD)No.19783 of 2024

1.Balamurugan

2.Indirani

... Petitioners/Accused Nos.1 & 2

vs.

1.The State of Tamil Nadu rep by its,
The Inspector of Police,
Pamban Police Station,
Ramanathapuram District.
(Crime No.338 of 2020)

... Respondents/Complainant

2.Ganesan

... Respondents/Defacto
Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in Cr.No.338 of 2020 dated 04.11.2020 on the file of the first respondent namely, The Inspector of Police, Pamban Police Station, Ramanathapuram District and quash the same and all further proceedings.

For Petitioners : Mr.R.Mahendrarajan

For R1 : Mr.A.Thiruvadi Kumar,

The Additional Public Prosecutor.



ORDER

WEB COPY This petition has been filed to quash the FIR in Cr.No.338 of 2020 on the file of the first respondent police.

2. The petitioners are accused in Crime No.338 of 2020 on the file of the respondent police. The petitioners are said to have abused the defacto complainant in filthy language and caused damages to the defacto complainant's property and also assaulted him and caused injuries. Hence, a case was registered in Crime No.338 of 2020 against the petitioners for the offences punishable under Sections 294(b), 324, 336, 427 & 506(i) of IPC and the investigation is pending.

3. Pending the investigation, the petitioners have filed this petition to quash the proceedings on the ground that the investigation is not completed within the limitation period provided in the proviso under Section 468(2) of Cr.P.C., The learned counsel appearing for the petitioners also supported the said plea by placing reliance on the order of this Court in CrI.OP(MD)No.11363 of 2023 dated 26.06.2023.



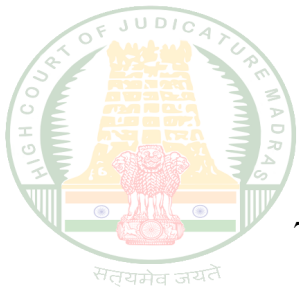
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4. The learned Additional Public prosecutor submitted that the plea of the petitioners to quash the FIR under Section 468 (2) of Cr.P.C., is not legally maintainable when the allegations in the FIR clearly constitute the offences under Sections 294(b), 324, 336, 427 & 506(i) of IPC. He also relied upon the Judgements of the Hon'ble Supreme Court in the case of ***Sarah Mathew v. Institute of Cardio Vascular Diseases***, reported in ***AIR 2014 SC 448*** and this Court in ***Crl.OP(MD)No.17860 of 2024 and Crl.OP(MD)No.6077 of 2021***. Therefore, he seeks for dismissal of this petition.

5. This Court considered the rival submissions and perused the impugned FIR and the precedents relied on either side.

6. There are allegations against the petitioners which constitute the offences under Sections 294(b), 324, 336, 427 & 506(i) of IPC. The punishment for the said offences are as follows:-

S.No.	Offences	Punishment
1	294(b) of IPC	3 months imprisonment
2	324 of IPC	3 years imprisonment
3	336 of IPC	3 months imprisonment
4	427 of IPC	2 years imprisonment
5	506(i) of IPC	2 years imprisonment



7.1. This Court in *Abiganesh Vs. Inspector of Police in*

Crl.OP(MD)No.17860 of 2024, has held as follows:-

“5. Let us take the plea of limitation first. This Court had an occasion to deal with similar plea of limitation in the case of Kishore Vs. State represented by the Inspector of Police, Reddiyarchatram Police Station in Crl.R.C.(MD)No.614 of 2023 dated 13.07.2023, wherein, FIR came to be registered for the offences under Sections 279 and 337 IPC on 02.04.2018 for the accident held on 02.04.2018 and subsequently, since the victim had died, the case was altered into Sections 279 and 304(A) IPC, that the first respondent has filed the final report on 02.03.2023 along with an application to condone the delay under Section 473 Cr.P.C. and the learned Magistrate has passed an order condoning the delay in filing the final report and consequently taken the case on file and that when that order was challenged before this Court on the ground that charge sheet laid was clearly barred by limitation as contemplated under Section 468 Cr.P.C., this Court, by following the judgment of the Constitution Bench of the Hon'ble Supreme Court in Sarah Mathew Vs. Institute of Cardio Vascular Diseases by its Director Dr.K.M.Churian and others reported in (2014) 2 SCC 62 and subsequent Division Bench judgment of the Hon'ble Supreme Court in Darshan Singh Saini Vs. Sohan Singh and others reported in (2015) 14



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SCC 570 and in the case of Amritlal Vs. Shantilal Soni and others reported in 2022 LiveLaw (SC) 248 to the point that for the purpose of computing the period of limitation under Section 468 Cr.P.C., 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 of the offence, has observed that since the accident was allegedly occurred on 02.04.2018 and a complaint came to be lodged on 02.04.2018, the date of occurrence itself, the question of invoking Section 468 Cr.P.C. does not arise at all.

6. When the decision in Kishore's case above referred came to be referred before Hon'ble Mr. Justice N. Anand Venkatesh, while dealing with two cases in A. Kaliyaperumal Vs. The Superintendent of Police, Cuddalore and others and Subash and others Vs. State and others reported in 2024-1-LW(Crl)332, the learned Judge, by observing that the judgment of the Constitution Bench in Sarah Mathew's case and the cases referred by the Constitution Bench, Krishna Pillai Vs. T.A Rajendran (1990 Supp SCC 121), Bharat Damodar Kale Vs. State of A.P. ((2003) 8 SCC 559) and Janani Sahoo Vs. Chandra Sekhar Mohanty ((2007) 7 SCC 394), all had arisen from the private complaint cases and as such, the decision of the Constitution Bench of the Hon'ble Supreme Court in Sarah Mathew's case, cannot be made applicable to the police cases, had practically over ruled the decision in



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Kishore's case. No doubt, as rightly observed by the learned Judge, Sarah Mathew's case and the cases referred therein had arisen from the private complaint cases. But it is pertinent to note that the Constitution Bench in Sarah Mathew's case has nowhere stated that the decision given therein is applicable only to the private complaint cases under Section 190(1)(a) and not to the police cases under Section 190(1)(b) of the Code of Criminal Procedure.

7. As already pointed out, the Constitution Bench has specifically held that the relevant date for the purpose of computing the period of limitation under Section 468 Cr.P.C. is the date of filing of the complaint or the date of institution of prosecution. The learned Judge has interpreted the words “institution of prosecution” in a narrow way and observed that the same are being used in the enactments such as the Drugs and Cosmetics Act, which would only mean about commencing prosecution by filing the complaint under Section 190(1)(a) before the Magistrate and that the words institution of prosecution used in Sarah Mathew's case had nothing to do with the prosecution under Chapter XII of the Code of Criminal Procedure. The learned Judge has further observed that date of filing of the complaint would only denote the private complaint which came to be defined under Section 2(d) Cr.P.C. and the information given to the police officer under Section 154 Cr.P.C., cannot be taken as a



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complaint. More importantly, the learned Judge has relied on the judgment of the Hon'ble Supreme Court in Arun Vyas Vs. Anita Vyas reported in (1999) 4 SCC 690, Three Judges Bench decision of the Hon'ble Supreme Court in State of H.P. Vs. Tara Dutt reported in (2000) 1 SCC 230 and another Two Judges Bench decision in Ramesh Vs. State of T.N. reported in (2005) 3 SCC 507, wherein, it has been held that the relevant date for reckoning the cut-off is the date on which the final report was filed and not the date on which the FIR was registered. Considering the above decisions, we can categorize the above decisions in two parts; those rendered prior to and those subsequent to the judgment of the Constitution Bench in Sarah Mathew's case.

8. It is pertinent to note that since a Two Judges Bench of the Hon'ble Supreme Court noticed a conflict between the Two Judges Bench decision in Bharat Damodar Kale's case and another Two Judges Bench decision in Janani Sahoo's case above referred with the Three Judges Bench decision in Krishna Pillai's case, the matter was referred to Larger Bench and hence, Five Judges Bench has dealt with the issue in extenso and came to the conclusion that for the purpose of computing the period of limitation under Section 468 Cr.P.C., 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 had taken cognizance.



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9. *In Sarah Mathew's case above referred, the Hon'ble Supreme Court has examined the present issue in the context of Article 14 of the Constitution and opted for reasonable construction rather than literal construction and the relevant passage is extracted hereunder:-*

*“37. We also concur with the observations in Japan Sahoo, where this Court has examined this issue in the context of Article 14 of the Constitution and opted for reasonable construction rather than literal construction. The relevant paragraph reads thus: “The matter can be looked at from different angle also. Once it is accepted (and there is no dispute about it) that it is not within the domain of the complainant or prosecuting agency to take cognizance of an offence or to issue process and the only thing the former can do is to file a complaint or initiate proceedings in accordance with law, if that action of initiation of proceedings has been taken within the period of limitation, the complainant is not responsible for any delay on the part of the court or Magistrate in issuing process or taking cognizance of an offence. Now, if he is sought to be penalised because of the omission, default or inaction on the part of the court or Magistrate, the provision of law may have to be tested on the touchstone of Article 14 of the Constitution. It can possibly be urged that such a provision is totally arbitrary, irrational and unreasonable. It is settled law that a court of law would interpret a provision which would help sustaining the validity of law by applying the doctrine of reasonable construction rather than making it vulnerable and unconstitutional by adopting rule of *litera legis*. Connecting*



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the provision of limitation in Section 468 of the Code with issuing of process or taking of cognizance by the court may make it unsustainable and ultra vires Article 14 of the Constitution.”

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 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.*

12. *At this juncture, it is necessary to refer the subsequent Division Bench judgment of the Hon'ble Supreme Court in Amritlal's case, “In Sarah Mathew, the Constitution Bench of this Court examined two questions thus: - 3. No specific questions have been referred to us. But, in our opinion, the following questions arise for our consideration:*

3.1. (i) *Whether for the purposes 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 the prosecution or whether the relevant date is the date on which a Magistrate takes cognizance of the offence?*

3.2. (ii) *Which of the two cases i.e. Krishna Pillai [Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121] or Bharat Kale [Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559] (which is followed in Janani Sahoo [Janani Sahoo v. Chandra Sekhar Mohanty, (2007) 7 SCC 394]), lays down the correct law? The Constitution Bench answered the aforesaid questions as follows: -*

“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



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the date on which the Magistrate takes cognizance. We further hold that Bharat Kale [Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559] which is followed in Janani Sahoo [Janani Sahoo v. Chandra Sekhar Mohanty, (2007) 7 SCC 394] lays down the correct law. Krishna Pillai [Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121 : 1990 SCC (Cri) 646] will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC. (emphasis supplied) Therefore, the enunciations and declaration of law by the Constitution Bench do not admit of any doubt 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 of the offence. The High Court has made a fundamental error in assuming that the date of taking cognizance i.e., 04.12.2012 is decisive of the matter, while ignoring the fact that the written complaint was indeed filed by the appellant on 10.07.2012, well within the period of limitation of 3 years with reference to the date of commission of offence i.e., 04.10.2009.”

13. In Amritlal's case, the offence was allegedly committed on 04.10.2009 and complaint came to be lodged on 10.07.2012, that final report came to be filed on 13.11.2012 and that the learned Magistrate had taken cognizance on 04.12.2012 and in that scenario, the Hon'ble Apex Court has observed that since complaint came to be lodged on 10.07.2012 for the offence alleged to have been committed on 04.10.2009, the same is well within the period of limitation of three years.



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14. In *Johnson Alexander Vs. State by CBI, ACB* in *Crl.A.No.1478 of 2010 dated 26.02.2015*, where the occurrence was allegedly held in the year 1995, FIR was lodged and the proceedings were initiated in the year 1999 and cognizance was taken on 21.06.2001, the Hon'ble Supreme Court has quashed the proceedings in view of the bar under Section 468 Cr.P.C. for the reason that there was no application filed by the prosecution explaining the delay caused from the date of the alleged occurrence till the date of filing of the complaint and registering the FIR. It is pertinent to note that the Hon'ble Apex Court has specifically assigned the reason that the complaint and FIR came to be registered beyond one year, therefore, the proceedings are not maintainable in law and on that ground, quashed the proceedings.

15. In light of the above discussion, it is clear that the 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.

16. At the risk of repetition, judgments relied on by the learned Judge of this Court in *A.Kaliyaperumal and Subash's case* above referred, were rendered prior to the Constitution Bench judgment in *Sarah Mathew's case*.



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More importantly, the legal position declared by the Constitution Bench in Sarah Mathew's case came to be reiterated by a Division Bench of the Hon'ble Supreme Court. In light of this, reliance on earlier judgments of the Hon'ble Supreme Court, prior to the Constitution Bench, is no longer permissible. The Constitution Bench judgment, as reaffirmed by the Division Bench, is binding and taken precedence over earlier decision.

17. The Hon'ble Supreme Court in Suganthi Suresh Kumar Vs. Jagdeeshan reported in AIR 2002 SC 681 has specifically held that it is impermissible for the High Court to overrule its decision on the ground that Supreme Court did not consider the other points, it is not only a matter of discipline for the High Courts in India, it is the mandate of the Constitution as provided in Article 141 that the law declared by the Supreme Court shall be binding on all courts within the territory of India. In Anil Kumar Neotia and others Vs. Union of India and others reported in AIR 1988 SC 1353, it has been held that the High Court cannot question the correctness of the decision of the Supreme Court even though the point sought before the High Court was not considered by the Supreme Court.

18. The sole contention raised was that the Constitution Bench laid down the dictum only for private complaint cases, not police cases. However, a subsequent Division Bench of the Supreme Court has unequivocally



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clarified that the Constitution Bench judgment is indeed applicable to the police cases. In light of this authoritative clarification, this Court has no jurisdiction or power to deviate from the Supreme Court's binding precedent.

19. Section 473 Cr.P.C. is a vital provision that empowers courts to take cognizance of a complaint even after the expiry of the limitation period. This section is pivotal in administering justice, as it allows complainants or aggrieved persons to institute complaints beyond the prescribed period, provided the court is satisfied with the facts and circumstances of the case that the delay has been properly explained or that it is necessary to extend the period in the interest of justice.

20. At this juncture, it is necessary to refer the following passages in Sarah Mathew's case above referred,

“28. We are inclined to take this view also because there has to be some amount of certainty or definiteness in matters of limitation relating to criminal offences. If, as stated by this Court, taking cognizance is application of mind by the Magistrate to the suspected offence, the subjective element comes in. Whether a Magistrate has taken cognizance or not will depend on facts and circumstances of each case. A diligent complainant or the prosecuting agency which promptly files the complaint or initiates prosecution would be severely prejudiced if it is held that the relevant point for computing limitation would be the date on which the Magistrate takes cognizance. The complainant or the



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prosecuting agency would be entirely left at the mercy of the Magistrate, who may take cognizance after the limitation period because of several reasons; systemic or otherwise. It cannot be the intention of the legislature to throw a diligent complainant out of the court in this manner. Besides it must be noted that the complainant approaches the court for redressal of his grievance. He wants action to be taken against the perpetrators of crime. The courts functioning under the criminal justice system are created for this purpose. It would be unreasonable to take a view that delay caused by the court in taking cognizance of a case would deny justice to a diligent complainant. Such an interpretation of Section 468 of the Cr.P.C. would be unsustainable and would render it unconstitutional. It is well settled that a court of law would interpret a provision which would help sustaining the validity of the law by applying the doctrine of reasonable construction rather than applying a doctrine which would make the provision unsustainable and ultra vires the Constitution. (U.P. Power Corporation Ltd. v. Ayodhya Prasad Mishra)."

21. The view taken by the Hon'ble Supreme Court in Sarah Mathew's case above referred, is primarily for the reason that so far as the complainant is concerned, as soon as he files a complaint, he has done everything which is required to be done by him and thereafter he has no control over the proceedings or any delay in taking cognizance.

22. 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.



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In my view, this reasoning should also apply to cases instituted through an FIR. 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. The complainant/informant has no control over the police's actions, including registration, investigation, and filing of the final report. If the police fail to take timely action, the complainant/informant should not be penalized for the police's inaction. Consequently, the complainant/informant cannot be held responsible for any subsequent delays in investigation, taking cognizance, issuing process, or any other action contemplated under law.

23. Considering the above, for the purpose of computing the period of limitation for taking cognizance of an offense under Section 468 Cr.P.C., this Court has no hesitation to hold that the relevant date is when the first information was given to the police, not when the police submitted the final report to the court.

24. It is a fundamental principle of law that the act of sovereign authorities shall not prejudice anybody. Therefore, for the inaction or delay on the part of the police authority or the court, the complainant/informant should not be penalized, as it would be unjust to deny them justice due to circumstances beyond their control.



25. *The Parliament, in response to the judgments of the Constitution Bench of the Hon'ble Supreme Court in Sarah Mathew's case, as interpreted by the subsequent Division Bench of Hon'ble Supreme Court in Amritlal's case, while enacting the BNSS, incorporated an explanation to clarify the computation of the period of limitation. Section 514 BNSS, corresponding to Section 468 Cr.P.C., now includes an explanation that provides clarity on this issue. Section 468 Cr.P.C. states:-*

“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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26. *The explanation added to Section 514 BNSS reads:-*

“Explanation.—For the purpose of computing the period of limitation, the relevant date shall be the date of filing complaint under section 223 or the date of recording of information under section 173.”

27. *This explanation, along with Section 515 BNSS (corresponding to Section 469 Cr.P.C.), conclusively resolves the issue in dispute. The explanation to Section 514 BNSS unequivocally states that the relevant date for computing the period of limitation is the date of filing the complaint under Section 223 BNSS or recording the information under Section 173 BNSS.*

28. *In the present case, the occurrence took place on 03.04.2021, and the FIR was registered on the same day. Consequently, the date of institution of prosecution is 03.04.2021, being the date of FIR registration. In light of the settled legal position, it is clear that the case is not barred by limitation, as the charge sheet filing date is irrelevant for computing the limitation period. Therefore, the prosecution in this case is well within the prescribed limitation period.”*

7.2. This Court also in ***Zakaria Farah Mohamed Vs. The Inspector of Police*** in ***Crl.OP(MD)No.6077 of 2021*** has held as follows:-

“7. Delay in filing the final report is not a ground to quash FIR when the nature of offence and other



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*relevant circumstances does not warrant in the interest of justice. Further, a crime never dies and would reach its logical end either in acquittal or conviction. The same was considered in detail manner by the Hon'ble Supreme Court in *Japani Sahoo v. Chandra Sekhar Mohanty* reported in (2007) 7 SCC 394 held as follows:-*

“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.

52. In view of the above, we hold that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a court. We, therefore, overrule all decisions in which it has been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/court and not of filing of complaint or initiation of criminal proceedings.”



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8. *The above ratio was affirmed by the Hon'ble Constitution Bench of Supreme Court in Sarah Mathew v. Institute of Cardio Vascular Diseases, reported in AIR 2014 SC 448. The Hon'ble Supreme Court has held that only prescribed period for preferring complaint to the respondent police:-*

'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. We further hold that Bharat Kale [Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559 : 2004 SCC (Cri) 39] which is followed in Japani Sahoo [Japani Sahoo v. Chandra Sekhar Mohanty, (2007) 7 SCC 394 : (2007) 3 SCC (Cri) 388] lays down the correct law. Krishna Pillai [Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121 : 1990 SCC (Cri) 646] will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC.

8.1. In this case, serious allegation is forgery of exit permit. Using the sais forged exit permit, the petitioner tried to go to Sri Lanka from Trichy Airport. So, the Airport authorities seized the documents and made a complaint to the respondent police. Based on the said complaint, the respondent registered the case and concluded the investigation belatedly. In the peculiar circumstances of the case, the quashment of FIR is not in



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the interest of justice. The Hon'ble Supreme Court reiterated the principle to consider the nature of the offence in like situation. In this case, the petitioner is facing the offence under the Foreigners Act, Passport Act and relevant IPC provisions. So, this Court is not inclined to accept the contention of the petitioner.

9. Even in the Hon'ble Supreme Court judgment heavily relied by the learned counsel for the petitioner in Vakil Prasad Singh v. State of Bihar, [AIR 2009 SC 1822], the said principle is reiterated in the following manner:-

“25. Where the Court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the Court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the Court to make an appropriate order as it may deem just and equitable including fixation of time-frame for conclusion of trial.”

10. In his counter, the Investigation Officer stated that the number of summons issued to the persons suspected in the fabrication of the above document had a residence in Mumbai. Further, the case of the accused is that in Hyderabad, one of his friends arranged the alleged forged exit permit, so the investigation officer issued summons and the said summons were not served



to complete investigation. Hence, the delay occurred.

11. In the said circumstances, there was no intentional delay on the part of the respondent. At this stage, it is the duty of this Court to follow the principle laid down by the Hon'ble Supreme Court reported in 2013 4 SCC 642, 2012 CrL LJ 4206, 2012 9 SCC 241: **Ranjan Dwivedi v. CBI, (2012) 8 SCC 495:**

“21. The reasons for the delay is one of the factors which the courts would normally assess in determining as to whether a particular accused has been deprived of his or her right to speedy trial, including the party to whom the delay is attributable. Delay, which is occasioned by action or inaction of the prosecution is one of the main factors which will be taken note of by the courts while interjecting a criminal trial. A deliberate attempt to delay the trial, in order to hamper the accused, is weighed heavily against the prosecution.

....

The good cause exception to the speedy trial requirement focuses on only one factor i.e. the reason for the delay and the attending circumstances bear on the inquiry only to the extent to the sufficiency of the reason itself.

23. The length of the delay is not sufficient in itself to warrant a finding that the accused was deprived of the right to a speedy trial. Rather, it is only one of the factors to be considered, and must be weighed against other factors. Moreover, among factors to be considered in determining whether the right to speedy trial of the accused is violated, the length of delay is least conclusive.



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While there is authority that even very lengthy delays do not give rise to a per se conclusion of violation of constitutional rights, there is also authority that long enough delay could constitute per se violation of the right to speedy trial. In our considered view, the delay tolerated varies with the complexity of the case, the manner of proof as well as the gravity of the alleged crime. This, again, depends on case-to-case basis. There cannot be universal rule in this regard. It is a balancing process while determining as to whether the accused's right to speedy trial has been violated or not. The length of delay in and itself, is not a weighty factor.

Niranjan Hemchandra Sashittal v. State of Maharashtra, [(2013) 4 SCC 642]

24. It is to be kept in mind that on the one hand, the right of the accused is to have a speedy trial and on the other, the quashment of the indictment or the acquittal or refusal for sending the matter for re-trial has to be weighed, regard being had to the impact of the crime on the society and the confidence of the people in the judicial system. There cannot be a mechanical approach. From the principles laid down in many an authority of this Court, it is clear as crystal that no time-limit can be stipulated for disposal of the criminal trial. The delay caused has to be weighed on the factual score, regard being had to the nature of the offence and the concept of social justice and the cry of the collective.

8. In this case, the occurrence took place on 03.11.2020 and the FIR was registered on 04.11.2020. In the said circumstances, the case of the



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petitioners to invoke Section 468(2)(c) Cr.P.C., is misconceived one. In the said Section, the language used is that '*no Courts shall take cognizance of the offence*'. Therefore, only for taking cognizance alone, the period of limitation is to be taken into account. Therefore, this Court declines to accept the case of the petitioners to quash the proceedings by invoking the proviso under Section 468(2) (c) of Cr.P.C.,

9. Accordingly, this Criminal Original Petition stands dismissed.

15.05.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

1. The Inspector of Police,
Pamban Police Station,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.,

dss

CrI.O.P.(MD)No.19783 of 2024

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