



Crl.OP(MD)No.20263 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.20263 of 2024

and

Crl.M.P.(MD)Nos.12538 and 12539 of 2024

1. Sheik Alavudeen

2 Bhasiriya Begum

3 Vajiga Begum

4 Rasidha Begum

... Petitioner/Accused

Vs.

1. The State of Tamil Nadu,
Rep . by the Inspector of Police,
Sellur Police Station,
Madurai District.
Cr.No.1205 of 2019.

.... Respondent / Complainant

2. Mohammad Iliyas

.... Respondent /
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the proceedings in C.C. No.1302/2024 on the file of the learned Judicial Magistrate



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No.II, Madurai and quash the same in so far as the petitioner as concerned.

For Petitioners : Mr.T.Antony Arulraj

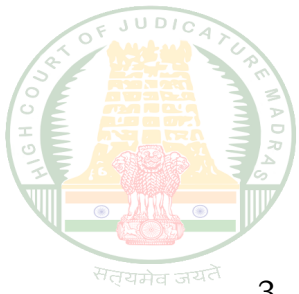
For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)

For R-2 : Mr.D.Shanmugaraja Sethupathi

ORDER

The present Criminal Original Petition has been filed seeking quashment of the proceedings in C.C.No.1302 of 2024 on the file of the learned Judicial Magistrate No.II, Madurai, arising out of Crime No.1205 of 2019 registered by the first respondent police for the alleged offences under Sections 323, 324 and 341 of the Indian Penal Code.

2. The petitioners stand arrayed as accused in the said calendar case. The second respondent/*de facto* complainant is the husband of the third petitioner. The first petitioner is the father-in-law, the second petitioner is the mother-in-law, and the fourth petitioner is stated to be the grandmother of the third petitioner. Thus, the substratum of the prosecution is embedded in a matrimonial dispute.



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3. The principal ground urged before this Court is that the alleged occurrence is dated 09.10.2019, the FIR was registered on 10.10.2019, whereas the final report was filed only on 23.07.2024 and taken cognizance of on 26.07.2024, far beyond the period of limitation prescribed under Section 468 of the Code of Criminal Procedure, 1973. It is further contended that no petition under Section 473 Cr.P.C. was filed seeking extension or condonation of delay, and that the learned Magistrate mechanically took cognizance of the final report.

Case of the Prosecution:

4. The case of the prosecution, in brief, is that due to a matrimonial dispute between the second respondent/husband and the third petitioner/wife, the third petitioner had allegedly left the matrimonial home and was residing with her parents.

5. According to the second respondent, on 09.10.2019, at about 7.00 p.m., he went to the residence of the petitioners. At that time, a quarrel is said to have arisen between him and the petitioners. During the course of the alleged quarrel, the petitioners



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are alleged to have wrongfully restrained him and caused injuries to him, including an injury near his left eye.

6. Based on the complaint lodged by the second respondent on 10.10.2019, the first respondent police registered Crime No.1205 of 2019 for the offences under Sections 323, 324 and 341 IPC. After investigation, the final report was filed and the same was taken on file as C.C.No.1302 of 2024 by the learned Judicial Magistrate No.II, Madurai.

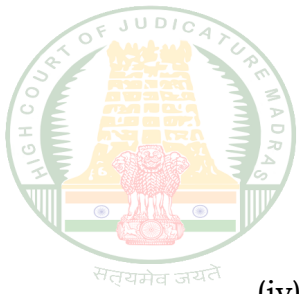
Grounds for quash:

7. The petitioners seek quashment mainly on the following grounds:

(i) The prosecution is a counterblast to the matrimonial dispute between the third petitioner and the second respondent.

(ii) The second respondent/husband had allegedly harassed the third petitioner/wife by insisting that she should discontinue her Ph.D. studies and by demanding additional dowry.

(iii) The alleged occurrence is improbable, particularly as the fourth petitioner is an elderly woman.



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(iv) The second respondent himself had gone to the residence of the petitioners, and therefore the offence of wrongful restraint under Section 341 IPC is not made out.

(v) There is no sufficient medical material or wound certificate to sustain the offences under Sections 323 and 324 IPC.

(vi) The FIR was registered on 10.10.2019, whereas the final report was filed only in July 2024, after nearly five years.

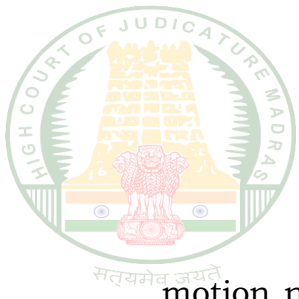
(vii) Since the offences are punishable with imprisonment not exceeding three years, cognizance taken beyond the period prescribed under Section 468 Cr.P.C. is legally barred.

(viii) No application under Section 473 Cr.P.C. was filed to condone or explain the delay.

(ix) The learned Magistrate mechanically took cognizance without advertent to the statutory bar of limitation.

Arguments on either side:

8. The learned counsel appearing for the petitioners submitted that the entire prosecution is nothing but an abuse of the process of law. The second respondent is the husband of the third petitioner and, owing to matrimonial discord, he has set the criminal law in



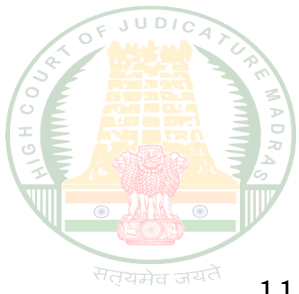
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motion not for vindication of justice, but for exerting pressure upon the wife and her family members.

9. It is submitted that the marriage between the second respondent and the third petitioner was solemnized on 06.08.2017 at Royal Court Hotel, Madurai. It is further submitted that the third petitioner is a highly qualified woman, holding a Doctorate in Computer Science, and was pursuing her academic career with the support of a national research fellowship. The second respondent, according to the petitioners, was not inclined to permit her to continue her higher studies and was insisting that she should abandon her research and remain in the matrimonial home.

10. The learned counsel further submitted that the alleged occurrence is said to have taken place on 09.10.2019, whereas the final report was not filed within the period of limitation. The FIR was registered under Sections 323, 324 and 341 IPC. The maximum punishment for the said offences does not exceed three years. Hence, under Section 468(2)(c) Cr.P.C., the period of limitation is three years.



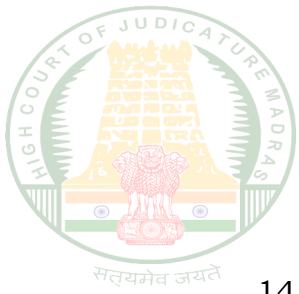
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11. It is further submitted that the limitation commenced from the date of the complaint/FIR, namely 10.10.2019. Therefore, the final report ought to have been filed and cognizance ought to have been taken within the statutory period. However, the final report was filed only on 23.07.2024 and taken cognizance of on 26.07.2024. Thus, the cognizance is hopelessly barred by limitation.

12. The learned counsel placed reliance upon the judgment of the Hon'ble Supreme Court in ***Sarah Mathew v. Institute of Cardio Vascular Diseases***¹, to contend that limitation under Chapter XXXVI Cr.P.C. has to be considered at the stage of taking cognizance and that the Magistrate cannot mechanically take cognizance of a time-barred prosecution.

13. It is also submitted that, if the prosecution wanted the Court to take cognizance beyond the period of limitation, it was incumbent upon the prosecution to file a petition under Section 473 Cr.P.C. explaining the delay. No such application was filed. No order condoning the delay was passed. Hence, the very cognizance is vitiated.

¹ (2014) 2 SCC 62



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14. On merits also, the learned counsel submitted that Section 341 IPC is not attracted, since the second respondent himself had gone to the residence of the petitioners. There is no material to show that he was prevented from proceeding in any direction in which he had a right to proceed. Likewise, Sections 323 and 324 IPC are also not attracted in the absence of reliable medical material.

15. The learned counsel therefore submitted that continuation of the criminal proceedings would amount to oppression and harassment, and that this is a fit case for exercise of inherent powers under Section 528 BNSS.

16. Per contra, the learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the allegations in the complaint disclose commission of cognizable offences. The final report has been filed after investigation, and therefore the petitioners must face trial. It is submitted that the truth or otherwise of the allegations cannot be gone into in a petition under Section 528 BNSS. The statements of witnesses and the



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materials collected during investigation *prima facie* disclose the offences alleged.

17. The learned counsel appearing for the second respondent submitted that the second respondent had sustained injuries and had taken treatment. It is contended that the petitioners cannot seek quashment by projecting the matter as a matrimonial dispute, when the allegations disclose independent criminal acts. It is further submitted that the issue of limitation can be considered by the trial Court and that the proceedings need not be quashed at the threshold.

18. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

19. The point that arises for consideration is whether the proceedings in C.C.No.1302 of 2024 on the file of the learned Judicial Magistrate No.II, Madurai, arising out of Crime No.1205 of 2019 for the offences under Sections 323, 324 and 341 IPC, are



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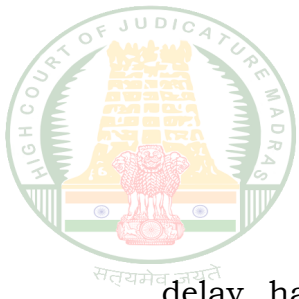
liable to be quashed under Section 528 BNSS on the ground of statutory bar of limitation, absence of condonation under Section 473 Cr.P.C., and want of *prima facie* ingredients?

Legal Position:

20. Section 468 Cr.P.C. imposes a statutory bar on taking cognizance of certain offences after the expiry of the prescribed period of limitation. Under Section 468(2)(c), where the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years, the period of limitation is three years.

21. Section 473 Cr.P.C. enables the Court to take cognizance even after the expiry of the period of limitation, provided the Court is satisfied, on the facts and circumstances of the case, that the delay has been properly explained or that it is necessary so to do in the interests of justice.

22. The power under Section 473 Cr.P.C. is not automatic. It requires application of mind. The Court must either find that the



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delay has been properly explained or record that extension of limitation is necessary in the interests of justice.

23. In ***Sarah Mathew v. Institute of Cardio Vascular Diseases***², the Hon'ble Supreme Court has explained the object of Chapter XXXVI Cr.P.C. and held that the bar of limitation cannot be treated as an empty formality. The Magistrate is required to be conscious of the statutory mandate while taking cognizance.

24. Likewise, in ***State of Haryana v. Bhajan Lal***³, the Hon'ble Supreme Court has illustratively laid down categories where criminal proceedings may be quashed, including cases where the criminal proceeding is manifestly attended with mala fides or instituted with an ulterior motive for wreaking vengeance.

Analysis:

25. The admitted relationship between the parties assumes significance. The second respondent is the husband of the third petitioner. The first and second petitioners are the parents of the

² (2014) 2 SCC 62

³ 1992 Supp (1) SCC 335



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third petitioner. The fourth petitioner is an elderly family member. The complaint has arisen in the backdrop of matrimonial discord.

26. It is not the law that every criminal complaint arising between spouses or in-laws must automatically be quashed. Equally, it is not the law that every matrimonial complaint should be blindly sent to trial merely because an FIR has been registered. The Court is duty-bound to examine whether the criminal process is being used for a legitimate prosecutorial purpose or as an instrument of pressure.

27. In the present case, the allegations show that the second respondent himself had gone to the house of the petitioners on 09.10.2019. The alleged quarrel took place there. Therefore, the origin of the occurrence itself is traceable to the second respondent's visit to the petitioners' residence.

28. Section 341 IPC punishes wrongful restraint. Wrongful restraint is defined under Section 339 IPC. The essential ingredient is that the accused must voluntarily obstruct a person so as to



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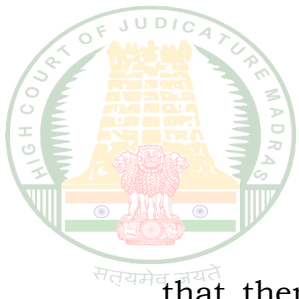
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prevent that person from proceeding in any direction in which that person has a right to proceed.

29. In the present case, the second respondent had admittedly gone to the residence of the petitioners. The prosecution materials do not disclose with clarity as to how he was prevented from proceeding in any particular direction in which he had a right to proceed. A mere quarrel or altercation, without the necessary ingredient of obstruction to movement, cannot constitute wrongful restraint. Therefore, the offence under Section 341 IPC is not *prima facie* made out.

30. Section 323 IPC deals with voluntarily causing hurt. Section 324 IPC deals with voluntarily causing hurt by dangerous weapons or means. For Section 324 IPC, the prosecution must *prima facie* disclose use of a dangerous weapon or means contemplated under the provision.

31. The allegation is that the second respondent sustained injury near his left eye. However, the petitioners specifically contend



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that there is no wound certificate or sufficient medical material to support the prosecution version. The complaint also appears to have emerged from a continuing matrimonial dispute.

32. At the stage of quashment, this Court does not conduct a mini trial. However, where the prosecution version is inherently weak, legally deficient, and is further hit by a statutory bar of limitation, the Court cannot compel the accused to undergo the rigour of trial.

33. The most crucial aspect of the present case is limitation. The alleged occurrence took place on 09.10.2019. The FIR was registered on 10.10.2019. The offences alleged are under Sections 323, 324 and 341 IPC.

34. The punishment prescribed for the said offences does not exceed three years. Therefore, the limitation prescribed under Section 468(2)(c) Cr.P.C. is three years. The final report was admittedly filed only in July 2024 and taken on file on 26.07.2024 as



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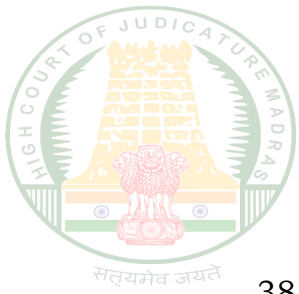
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C.C.No.1302 of 2024. Thus, the cognizance was taken nearly five years after the registration of the FIR.

35. This Court cannot ignore the legislative command contained in Section 468 Cr.P.C. The provision is not a mere technical rule. It is founded upon sound public policy that stale prosecutions for minor offences should not be permitted to hang over citizens indefinitely.

36. If the prosecution was unable to file the final report within the prescribed period, the proper course was to file an application under Section 473 Cr.P.C. explaining the delay and seeking extension of the period of limitation. No such course was adopted.

37. There is nothing on record to show that the learned Magistrate applied his mind to the question of limitation. There is also nothing to indicate that the delay was condoned by a reasoned order. In the absence of such an order, taking cognizance of a time-barred final report is legally unsustainable.



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38. Taking cognizance is a judicial act. It is not a ministerial endorsement. The Magistrate is expected to examine whether the final report and the accompanying materials disclose a *prima facie* case and whether there is any legal bar to taking cognizance.

39. In the present case, the bar under Section 468 Cr.P.C. was apparent from the face of the record. The FIR was of the year 2019. The final report was taken on file only in 2024. The offences alleged were punishable with imprisonment not exceeding three years. Therefore, the learned Magistrate was required to consider the issue of limitation before taking cognizance. The absence of such consideration vitiates the cognizance taken in C.C.No.1302 of 2024.

40. The inherent power of this Court under Section 528 BNSS is intended to prevent abuse of the process of any Court and to secure the ends of justice. Where a prosecution is legally barred, lacks essential ingredients, and is intertwined with a matrimonial dispute in a manner suggesting coercive use of criminal process, this Court would be justified in exercising its inherent jurisdiction.



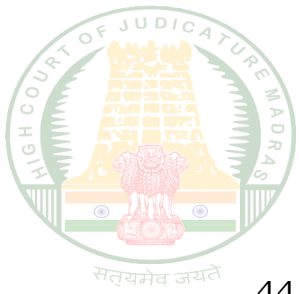
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41. The present case satisfies the parameters for interference. The proceedings are hit by limitation. No condonation was sought or granted. The offence under Section 341 IPC is not made out on the admitted factual premise. The allegations under Sections 323 and 324 IPC are not supported by sufficient foundational materials at this stage. The prosecution has also arisen in the backdrop of a matrimonial conflict between the second respondent and the third petitioner.

42. Continuation of such proceedings would not advance justice. On the contrary, it would amount to permitting a stale and legally barred prosecution to continue, thereby causing undue prejudice to the petitioners.

43. For the reasons stated above, this Court holds that the proceedings in C.C.No.1302 of 2024 on the file of the learned Judicial Magistrate No.II, Madurai, arising out of Crime No.1205 of 2019, are barred by limitation under Section 468 Cr.P.C. and have been taken cognizance of without following the mandatory procedure contemplated under Section 473 Cr.P.C.



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44. This Court further holds that the continuation of the criminal proceedings against the petitioners would amount to abuse of process of law.

45. Accordingly, this Criminal Original Petition is **allowed**. The proceedings in C.C.No.1302 of 2024 on the file of the learned Judicial Magistrate No.II, Madurai, arising out of Crime No.1205 of 2019, are hereby quashed insofar as the petitioners are concerned. Consequently, connected Criminal Miscellaneous Petitions are closed.

01.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

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



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