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CrI.O.P.No.4980 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2022

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.4980 of 2019

Murali

.. Petitioner

/versus/

The Inspector of Police,
NIB-CID Police Station,
Chennai.

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code praying to quash the F.I.R in Crime No.79/2017 on the file of respondent police (NIB-CID, Chennai).

For Petitioner :Mr.B.Raja

For Respondent :Mr.N.S.Suganthan,
Government Advocate (CrI.Side)

ORDER

This petition is filed to quash the suo moto criminal complaint registered by the Inspector of Police, NIB-CID Police Station, Chennai in Crime No.79 of 2017 on 17.10.2017.



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2. According to the complaint, based on the prior information, the Inspector of Police along with Police Constable Mr.Babu and Head Constable Mr.Senthil Kumar went to the Grand Plaza Resort and on identification of the accused by the informant, on 17.10.2017 at about 11.30 a.m., the petitioner herein was arrested and polythene white colour bag carried by him was seized in the presence of Constable Mr.Babu and Head Constable Mr.Senthil Kumar. The petitioner was informed about his right under Section 50 of the Narcotics Drugs and Psychotropic Substances Act, 1985 and the bag he carried was tested. He was examined and found that he has ganja leaves and flower buds. On weighing, it was found 0.650 grams. After drawing two samples each 25 grams, the remaining contraband was duly packed and sealed. Thereafter, the case was registered under Section 8(c) r/w 20(b) (ii)(A) of the Narcotics Drugs and Psychotropic Substances Act, 1985 and the accused was arrested and released on bail by the police at the police station itself.

3. Alleging that it is a false case foisted against him, the petitioner filed Crl.O.P.No.27369 of 2018 to quash the First Information Report. When the matter was came up for hearing, Mr.M.Mohamed Riyaz,



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then Additional Public Prosecutor, on instructions, has submitted that the respondent police has already completed the investigation and filed the final Report on 06.12.2017 before the Judicial Magistrate No.II, Ponneri and the said final report is yet to be taken on file and numbered. Recording the same, this Court directed the respondent police to get the final report numbered, within two weeks, from the date of receipt of the copy of that order and liberty was given to the petitioner to challenge the final report, if so advised. In the said circumstances, since till date final report was not filed, the petitioner has approached this Court by way of filing this petition under Section 482 of Cr.P.C in CrI.O.P.No.4980 of 2019, which is under consideration before this Court.

4. The learned counsel appearing for the petitioner submitted that, inspite of the direction by this Court vide order dated 26.11.2018 to get the final report numbered, within two weeks, till date, the final report has not seen the light of the day and not numbered. The offence being punishable to the extent of 1 year and failure to file the final report, within a period of one year, hit by law of limitation as prescribed under Section 468 of the Criminal Procedure Code. Further, the learned counsel also



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contended that the seized contraband has also not been seen the light of the

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day, which clearly indicate that, Mrs.Vijayalakshmi, the then Inspector of Police attached to NIB CID, with malicious intention, has registered this complaint falsely implicated in a grave offence of Trafficking the Narcotic Drugs and thereby prevented the petitioner herein, who was pursuing his Engineering Course at Venkateswara Engineering College.

5. Considering the gravity of allegation made by the petitioner herein, this Court directed the Government Advocate (Crl.Side) to find out the current status of the complaint registered against this petitioner and also to produce CD file. Accordingly, the learned Government Advocate (Crl.Side) produced CD file and submitted that the Investigating Officer, who has registered the case has been transferred and final report filed by her not yet taken on file and not pursued.

6. From the record, it is also seen that the samples were sent to the Court with a requisition letter to forward the samples for laboratory test. Though the Magistrate ordered to forward the samples to the lab test, the same was not sent for lab test. Also, the remaining contraband was not produced before the Court under Form 95.



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7. In view of the fact that more than 1 year has lapsed after registering the complaint and the maximum punishment for possession of 0.650 grams of ganja is up to one year, the complaint suffers limitation prescribed under Section 468 of the Criminal Procedure Code. The present incumbent state, she has sought the legal opinion in the matter to proceed further. This Court on perusing the CD file finds nothing well in the manner in which the case has been registered and dealt by the then Investigating Officer.

8. As far as the relief sought for by the petitioner, this Court has no hesitation to allow the same for the reason that the contraband alleged to have been seized by the petitioner has not been tested for its content, inspite of lapse of 5 years. In spite of the direction by this Court to get the final Report numbered, the then Investigating Officer has not taken any interest to get the final report numbered. This attitude of the Investigating Officer who has registered the case, clearly indicates that the case is not registered based on true facts. It is for the Senior Official to look into this case and take appropriate action for registering the complaint and not proceeding further in accordance with law. Since the Investigating



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Officer, who has registered this case, has been transferred and not in the office, this Court is not inclined to pass any order against the respondent police. However, record that the case against the petitioner registered in Crime No.79 of 2017 is a clear case of abuse of power and malicious prosecution launched by the then Investigating Officer with the help her subordinates namely, Mr.Babu and Mr.Senthil Kumar.

9. In the result, this Criminal Original Petition is allowed and the First Information Report in Crime No.79 of 2017 on the file of the respondent Police, (NIB-CID) Chennai is quashed.

26.09.2022

Index:yes/no

Speaking order/non speaking order

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To

1.The The Inspector of Police, NIB-CID Police Station,Chennai.

2.The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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