

Crl.O.P(MD) No. 15408 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 01.10.2026

Delivered On: 14.10.2026

CORAM

THE HON'BLE DR. JUSTICE P. MURUGAN

Crl.O.P(MD) No. 15408 of 2024
{CNR: HCMD010942152024}



Case QR

and

Crl. M.P(MD) No. 9634 of 2024

Sivaganesh,
S/o Selvam,
No.95H, Ganapathi Nagar,
South Street,
Palanganatham,
Madurai - 625 003.

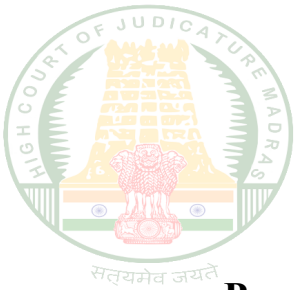
... Petitioner

Vs.

1. The Inspector of Police,
S.S.Colony Police Station,
Madurai City,
Madurai District.
Crime No.2709/2020.

2. The Sub Inspector of Police,
S.S.Colony Police Station,
Madurai District.

... Respondents



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Prayer: This Criminal Original Petition is filed under section 528 of BNSS, to call for the records pertaining to the impugned First Information Report in Crime No. 2709 of 2020 on the file of the 1st respondent police station and quash the same as illegal.

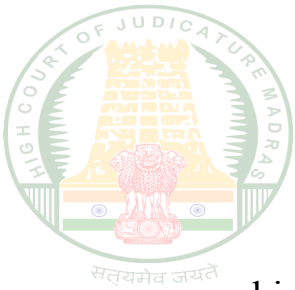
For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.C.Susikumar
Government Advocate (Criminal Side)

O R D E R

This quash petition is filed to quash the First Information Report in Crime No.2709 of 2020 on the file of the first respondent.

2. The brief facts to dispose of this quash petition are as that as per the case of the prosecution, on 27.12.2020 around 05.15 p.m., after receiving a secret information, a team of police party went to Nehru Nagar junction situated in by-pass road, Madurai City and at about 05.30 p.m., the petitioner was intercepted by the team of police headed by the second respondent and found that 270 grams of Ganja in 27 small pockets weighing about 270 grams



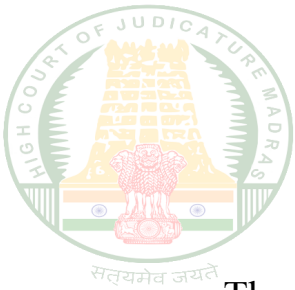
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which possessed by the petitioner. Thereby, a case was registered for the alleged offences under sections 8 (c) and 20 (b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act, 1985 (herein after referred to '1985 Act') in Crime Number: 2709 of 2018, dated 27.12.2020.

3. The case of the petitioner to quash the F.I.R is as that he never involved in any offence and a false case was registered against him. He completed B.A. (Economics) degree and he is hailing from a reputed family. He is an Archer and participated in State and National Level Competitions. There is a recruitment notification by Assam Rifles for the post of Rifleman (General Duty) in the year 2022 and when the petitioner intend to apply for the said recruitment, came to know about this false case against him. Thereby, this petition has been filed.

4. The grounds raised for quashing of First Information Report is as that for the offence under section 20 (b)(ii)(A) of 1985 Act, the maximum imprisonment is one year or with fine may extend to Rs.10,000/- (Rupees Ten Thousand only) or with both.

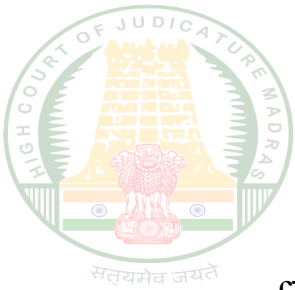


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Therefore, the police ought to have filed a final report within one year from the date of registration of the F.I.R, i.e. from 27.12.2020 to 27.12.2021. However, in this case more than 3 years 8 months have lapsed, no charge sheet has been filed. Thereby, it is barred by law, as per section 468(2)(b) of the Code of Criminal Procedure. The F.I.R was registered on 27.12.2020, but, till the date of filing the quash petition, it was not sent to the Jurisdictional Court.

5. In this regard, the learned counsel for the petitioner filed a copy of application before the Judicial Magistrate No.V, Madurai on 13.05.2024 and requested to supply certified of the F.I.R, final report and statements in connection with Crime No. 2709 of 2020 in Copy Application No.215 of 2024. Till the date of filing the quash petition, no contraband was sent for any chemical analysis. This Court in a case of *Murali v. The Inspector of Police, in* Crl.O.P No.4980 of 2019 dated 26.09.2022, quashed the F.I.R for the offence under section 8 (c) r/w 20 (b)(ii)(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985, even after a lapse of more than five years from the date of occurrence, having



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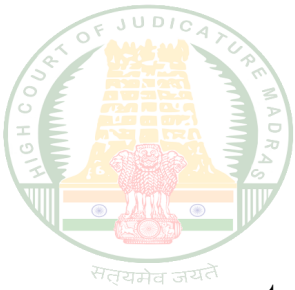
no final report filed before the concerned Court, which is barred by limitation.

6. Even in the present case, although the alleged occurrence took place on 27.12.2020, no final report has been filed till the date of filing the quash petition. Even the respondent police have not filed an application before the concerned Court seeking an extension of time under section 473 of the Code of Criminal Procedure. Therefore, the case is squarely barred by limitation, and the case in Crime No. 2709 of 2020 on the file of the first respondent is liable to be quashed.

7. Heard both sides. Perused the records. Considered the submissions made by both sides.

8. The point for consideration is as that whether the quash petition is to be allowed or not on the point of limitation?

9. Section 8 of the 1985 Act says prohibition of certain operations. Sub-section (c) of section 8 says produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India



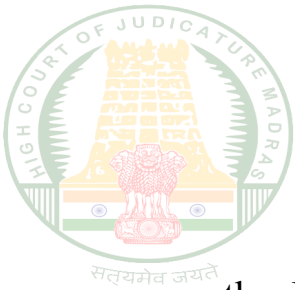
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or tranship any narcotic drug or psychotropic substance.

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10. The case of the prosecution is as that the accused was found in illegal possession of 270 grams of ganja packed in 27 small pockets. Therefore, section 8(c) of 1985 Act attracts. There is no punishment prescribed for section 8(c) and it only deals with possession of ganja by the accused. The punishment is prescribed in section 20 (b)(ii)(A) of 1985 Act. It is said the punishment provision for possession of ganja or contravention of any provision of the 1985 Act. The punishment prescribed therein may extend to one year or with fine with an extend to Rs.10,000/- (Rupees Ten Thousand only) or with both. The maximum punishment is one year or fine or both, if it is so, the Court has to take cognizance within one year from the date of commission of offence, as per section 468 of Cr.P.C.

11. Taking cognizance or the word cognizance has been interpreted and it is settled by the Hon'ble Supreme Court. For the purpose of interpreting section 468 of the Code of Criminal Procedure, the filing of a complaint, i.e., a private complaint before

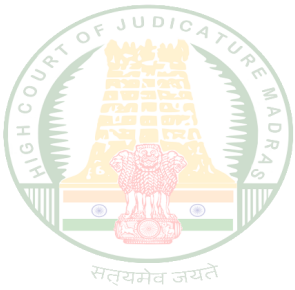


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the Judicial Magistrate or Special Court, or the filing of a police report before the Court, is to be taken note of. Section 468 deals with the bar to taking cognizance after the lapse of the period of limitation. There is no quarrel for taking cognizance of the one year punishment offence, the limitation is one year.

12. But, in this case, though the F.I.R was registered on 27.12.2020, the charge sheet was not filed within one year from the date of registration of the F.I.R, i.e. on or before 27.12.2021. The petitioner also stated in the quash petition that he had applied copy application in C.A.No.215 of 2024 on 13.05.2024 to supply certified copy of F.I.R, final report and statements accompanied in the final report, but it was returned stating that no F.I.R has been received on 13.05.2024. Having no F.I.R was received nearly 3 ½ years and the quash petition was filed before this Court on 03.09.2024. It was initially heard by this Court by another Bench and recorded by an order dated 13.09.2024, that the copy application filed by the accused was returned that the F.I.R itself was not received. Thereby, the matter has been pending for



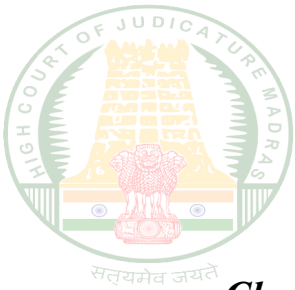
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consideration.

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13. When the matter was further listed before this Court on 23.09.2026, after hearing the learned counsel for the petitioner and on perusal of the provisions of section 468 of Cr.P.C coupled with section 20(b)(ii)(A) of the 1985 Act, this Court directed the Judicial Magistrate No. V, Madurai, to submit a report explaining the basis on which the said Magistrate took cognizance of the case more than one year after the date of registration of the F.I.R.

14. The Judicial Magistrate No.V, Madurai, sent a report dated 28.09.2026 referring recent judgment of the Hon'ble Supreme Court in *Roma Ahuja v. The State & Anr.* dated 09.04.2026, in Criminal Appeal Nos.1831-1832 of 2026, wherein in the said decision it was held that in paragraph No.7.2., when the complaint filed before the police, is enough to account the limitation period, that is what matters is the date of initiation of criminal proceedings. In the said decision of the Hon'ble Supreme Court, it was also referred to the Constitution Bench decision in *Sarah Mathew v. Institute of Cardio Vasular Diseases by its Director Dr. K.M.*



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Cherian & Ors. (2014) 2 SCC 62.

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15. The Judicial Magistrate No.V, Madurail, also referred the explanation to section 514 (3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, which reads as follows:

“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.”

16. As per the said explanation to section 514 (3), the Magistrate understood that for the purpose of computing the period of limitation, the relevant date shall be the date of the filing of complaint under section 223 or the date of recording of information under section 173. Thereby, the Magistrate had come to the conclusion that the case is not barred by limitation, therefore, she took cognizance.

17. The learned counsel for the petitioner submitted that the alleged date of offence is 27.12.2020 and thereby B.N.S.S is not



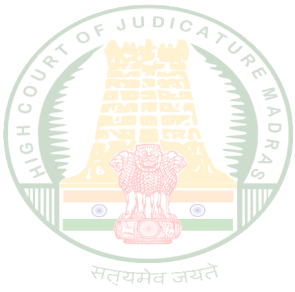
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applicable to the facts of the case. As per section 531 of BNSS, which is repeal and savings provision. Clause (a) of sub-section (2) of 531, the BNSS is not applicable to the case facts, for taking cognizance and only the Code of Criminal Procedure is applicable.

18. The said Clause (a) of sub-section (2) of section 531 BNSS is extracted below:

“531.(2) Notwithstanding such
repeal—

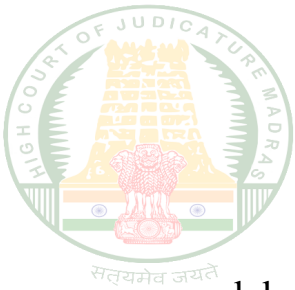
(a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973, as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force.”



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19. This Court, by order dated 23.09.2026, also directed the Investigating Officer in the case under consideration to submit an explanation regarding the delay in forwarding the police report to the Court. Accordingly, the Investigating Officer submitted an explanation and appeared before this Court. Mrs.M.Perarasi, Sub Inspector of Police, investigated the case appeared before this Court on 01.10.2026, stated that she registered the case on 27.12.2020 and, on the same day, examined the witnesses, completed the investigation, and prepared the investigation report dated 27.12.2020. Thereafter, she handed over the final report to the police constable for submission before the Court. She was under the impression that the Court would proceed only on the basis of the admission made by the accused. Therefore, she could not followup the action in that case. Subsequently, the police station was shifted from rental building to own building and she forgot about this case. Thereafter, she was transferred to other police station in 2023. Therefore, she expressed regret for the

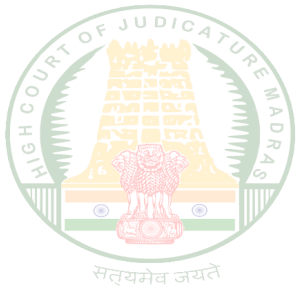


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delay in forwarding the final report to the Court and also apologised for the lapse on her part.

20. As per the report of the Judicial Magistrate No.V, dated 28.09.2026, though the F.I.R was registered on 27.12.2020, final report has been filed through e-filing on 05.08.2022, but, no F.I.R has been received by the Court. Therefore, the final report had not been taken on file and pointed out that the defect to be rectified. Though the final report and F.I.R produced before the Court only on 12.10.2025, but the property produced only on 29.12.2025 and, therefore, the case was taken on file on 15.05.2026 in S.T.C.No. 2008 of 2026 and the case has been proceeded further.

21. It is clear from the Magistrate report that the charge sheet has not been filed before the Court within one year from the date of alleged offence, i.e. before 27.12.2021, but reached only on 05.08.2022. Having no F.I.R. received by the Court, she took steps to rectify the lapse. Accordingly, the F.I.R. and the charge sheet were resubmitted on 12.10.2025. Then the case was taken on file by the Magistrate on 15.05.2026.

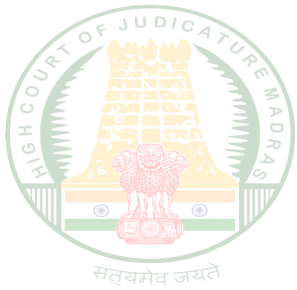


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22. Then, this Court orally directed the Registry to get a copy of the final report and cognizance taken particulars by message. On receipt of message, the Judicial Magistrate No.V, Madurai, sent a report dated 01.10.2026, enclosing a copy of the final report, which reveals that police report was received in person on 12.10.2025. There is a seal affixed therein, in which, the case number particulars, in S.T.C.No.2008 of 2026 under section 8(c) and 20(b)(ii)(A) of the 1985 Act was taken on file. As per the police report and the order of the Magistrate taking the case on file, neither application seeking an extension of time filed by the police under section 173 of the Cr.P.C., nor any specific order passed by the Magistrate condoning the delay under section 473 of the Cr.P.C. For better clarity, section 473 of Cr.P.C, is extracted below:

“473. Extension of period of limitation in certain cases.- Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the



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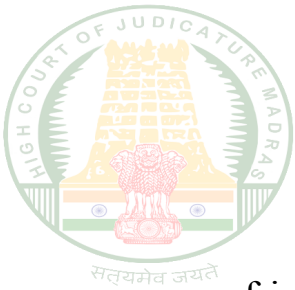
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circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.”

23. On perusal of section 473 of Cr.P.C, the cognizance may be taken after the expiry of the period of limitation, if the delay has been properly explained for which, there must be a reason for investigating officer for delay in filing the police report or even the Court itself may condone the delay and it has to be done in the interest of justice by speaking order of the Magistrate.

24. Here, in this case, no such extension of delay petition filed by the Investigating Officer and further, there is no delay condoned by the Magistrate by speaking order at the interest of the justice.

25. The learned counsel for the petitioner placed reliance of the Constitution Bench in ***Sarah Mathew v. Institute of Cardio Vascular Diseases by its Director Dr. K.M. Cherian & Ors.*** (2014) 2 SCC 62, to that aspect, date of relevant for computation of period of limitation is the date when criminal complaint is filed or the date



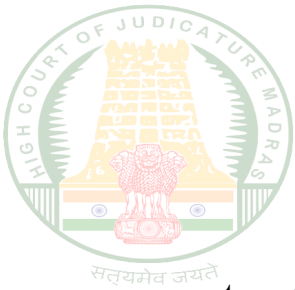
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of institution of the prosecution / criminal proceedings and not the date when the Court / Magistrate take cognizance.

26. By placing that reliance, the learned counsel for the petitioner submitted that when the criminal complaint is filed it is a private complaint filed under section 200 of Cr.P.C., before the Magistrate or the Special Court. Further it was contended that date of institution of the prosecution / criminal proceedings means, the charge sheet is filed before the Court or Magistrate or the Court itself *suo motu* initiated any proceedings and not by filing the first information to the police.

27. The learned counsel referred section 2(d) of Cr.P.C, which says that complaint means any allegation made orally or in writing to a Magistrate, with a view to the Magistrate taking action under the Code, stating that some person (known or unknown) has committed an offence, but, does not include the police report. Thereby the word 'complaint' as per the Code of Criminal Procedure is the complaint given to the Magistrate by the affected person. The complaint given to the police, though usually referred

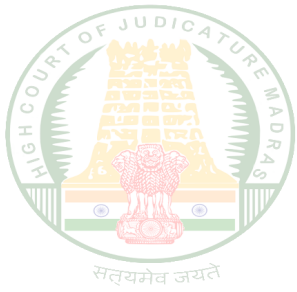


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to at Bar, is not a complaint in the legal sense; but it is only information or the first information given to the police under section 154 of Cr.P.C.

28. Whenever the first information is given to the police, it does not constitute the institution of a complaint or criminal proceedings. The investigation is to be conducted and once the investigation is completed, the police report, whether positive or negative, is filed before the Court, thereby instituting the prosecution or criminal proceedings. Therefore, the Magistrate has misconstrued the concept of a complaint under section 2(d) of the Cr.P.C. A complaint defined under section 2(d) of Cr.P.C filed before the Magistrate under section 200 of the Cr.P.C. is distinct from the information given to the police for the registration of an F.I.R. Further, the Magistrate misunderstood the date of the occurrence, the filing of the information, and the completion of the investigation. The occurrence took place on 27.12.2020, and the information was filed on 27.12.2020 and the investigation was completed on the same date.

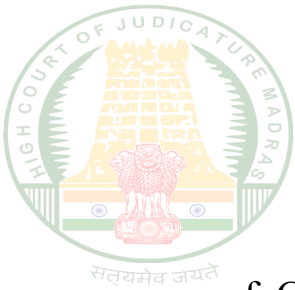


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29. Thus, all these events took place within a single day. Therefore, by referring to section 468 of Cr.P.C. and section 514 of BNSS, the Magistrate misconstrued that the complaint as having been filed on the date of the occurrence to the police on the basis of the explanation to section 514 of the BNSS, that the case was not barred by limitation. Even that explanation says complaint under section 223 of BNSS, which means complaint filed before the Magistrate and not before the police. This amounts to a misconception regarding the applicability of the BNSS to an investigation conducted under the Cr.P.C.

30. As per the version of the investigating officer, she registered the case on 27.12.2020, the investigation was done on the same day, the final report was prepared on the same day on 27.12.2020 and the same also been despatched to the Court on 27.12.2020. If it is so, on perusal of the charge sheet, which reveals that it was filed under section 193 of BNSS, not under section 173

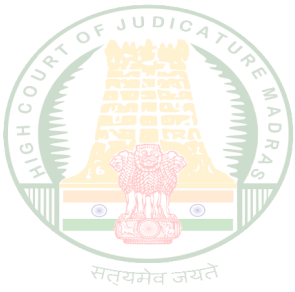


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of Cr.P.C, wherein, the charge sheet was ready on 27.12.2020, whereas the BNSS came into force only on 01.07.2024. Therefore, the case put forward by the Investigating Officer, Mrs. M. Perarasi, is itself false. Thereby, the petitioner's contention that a false case has been foisted against him cannot be ruled out.

31. Even assumed for a moment, the investigating Officer filed charge sheet as early as on 27.12.2020, whereas the question of invoking section 193 of BNSS has not been properly explained, wherein, there was no such law on that date, wherein the BNSS was passed in the year 2023 and came into force on 01.07.2024, thereby, a false case has been foisted against the petitioner is supported by concrete evidence. The act of the investigation officer is nothing but falsification of public record before the Court of law. Therefore, the Commissioner of Police, Madurai City, is directed to take appropriate legal action against the investigation officer of the case in Crime No.2709 of 2020 on the file of the first respondent and send his report within three months from the date of receipt of this order.

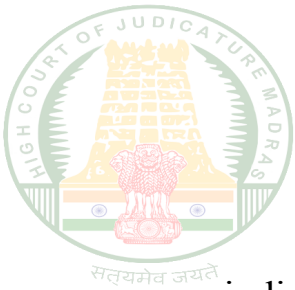


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32. Even without appreciating the date of offence, charge sheet, and included section 193 of BNSS, the Magistrate wrongly taken the case on file, wherein the cognizance has not been taken by the Magistrate on application of mind. On perusal of the copy of the charge sheet forwarded by the Magistrate, it is evident that there is no reasoned order, and the case appears to have been taken on file merely by affixing a rubber stamp, which cannot be accepted. In this regard, this Court has already issued various directions directing the Magistrates and Special Courts to apply their judicial mind and not to take case on file merely by affixing a seal or making an endorsement. However, the Magistrate has violated the said directions issued by this Court.

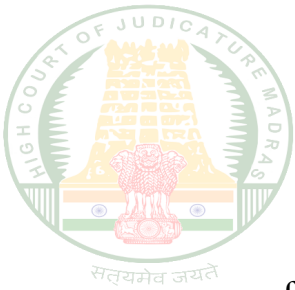
33. Also, by citing the above Constitutional Bench decision *Sarah Mathew* (supra), the learned counsel for the petitioner submitted that the Magistrate has not applied her judicial mind while taking cognizance of the offence, whereas a common seal stating taken on file was affixed to the charge sheet. Such an endorsement is erroneous and demonstrates non-application of



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judicial mind, particularly when the case is barred by law. Despite the bar of limitation, the case was taken on file without a reasoned judicial order. As per paragraph No.34 of the Constitution Bench decision cited *supra*, it was held that a Magistrate or Judge takes cognizance, when he applied his mind or take judicial notice of an offence with a view to initiating proceedings in respect of offence which is said to have been committed. Here, the Magistrate has not taken any such further steps. Therefore, it is concluded that the Magistrate had not applied her mind before taking the case on file.

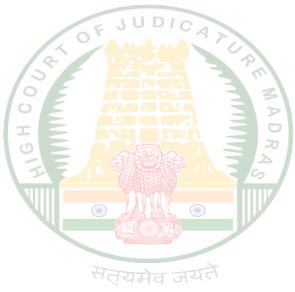
34. In a similar circumstances, this Court in the case of ***A. Kaliyaperumal v. The Superintendent of Police, Cuddalore & Anr.***, in Crl.O.P.Nos.433 and 543 of 2024 by an order dated 24.01.2024, quashed the case, which was taken on file after the expiry of the limitation and referred the Constitutional Bench of the Hon'ble Supreme Court in ***Sarah Mathew*** (*supra*) and other citations. Then the Court distinguished the Constitution Bench judgment, taking note of all the cases that had given rise to



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conflicting views did not arise under the provisions of section 173 of Cr.P.C.

35. By discussing various decisions of the Hon'ble Supreme Court and considering the judgments rendered by the Hon'ble Supreme Court, in *Arun Vyas v. Anitha Vyas* (1999) 4 SCC 69 held that the relevant date for reckoning the cut-off date is the date on which the final report was filed and not the F.I.R was registered. As per the Full Bench decision of the Hon'ble Supreme Court in *State of H.P v. Tara Dutt* (2000) 1 SCC 230, the ratio of *Arun Vyas* (supra) was considered and approved holding that the date of reckoning the limitation is date of filing the charge sheet and not the filing of the F.I.R. Therefore, in the referred case of *A. Kaliyaperumal* (supra), the proceedings were quashed on the ground that the Magistrate had taken cognizance beyond the prescribed period of limitation. The same fact is applicable to the case on hand, as per *Arun Vyas* (supra), which was affirmed in *Tara Dutt* (supra) which was applied in *A.Kaliyaperumal* (supra) is squarely applicable to the facts of the case.

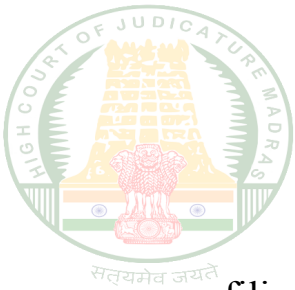


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36. The learned counsel for the petitioner also referred the recent decision of this Court in ***Pradeep Rajan v. State of Tamilnadu, Rep. By Inspector of Police, Kalaiyarkoil Police Station, Sivagangai District & Anr.*** (2026) 2 MLJ (Crl.) 200, holding that final report filed and cognizance taken only after two years of occurrence, where the offence punishable is two years and having the prosecution have not moved extension / condonation by invoking section 473 of Cr.P.C, nor did it show reasoned order to condone the delay, the case was quashed.

37. The learned counsel for the petitioner also referred the recent decision of the Hon'ble Supreme Court in ***Roma Ahuja v. The State & Anr.*** dated 09.04.2026, in Criminal Appeal Nos. 1831-1832 of 2026 (supra) referred by the Magistrate and submitted that though the Constitutional Bench of the Hon'ble Supreme Court in ***Sarah Mathew*** (supra) and held that the relevant date for computation period of limitation is the date, when the criminal complaint is filed or the date of institution of the prosecution /criminal proceedings, but, the Court held that the



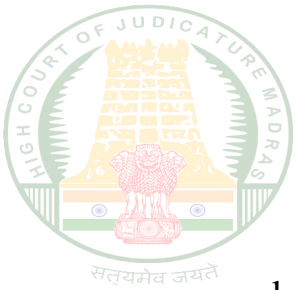
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filing of a complaint before the police itself is considered sufficient and such a view cannot be regarded as good law in light of the Full Bench decision in *Tara Dutt* (supra). Therefore, the reason assigned by the Magistrate for taking cognizance on police report cannot be sustained, and it is submitted that the quash petition is liable to be allowed.

38. The occurrence took place on 27.12.2020, the F.I.R registered on 27.12.2020 and the charge sheet was finalised on 27.12.2020. Therefore, the applicable law is only Cr.P.C and not BNSS. Therefore, the explanation given under section 514 (3) of BNSS is not applicable to the facts of the case. Though the charge sheet was not filed immediately as per the report of the Magistrate, but, it was finally filed before the trial Court on 12.10.2025, but the applicable law to take cognizance is Cr.P.C as per section 531 of BNSS.

39. Once the Cr.P.C. is applicable to the case, the proceedings must be dealt with in accordance with the procedure prescribed under the Cr.P.C., as the investigation was conducted



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and the final report was prepared under the Cr.P.C. and initially filed on 05.08.2022 through online e-filing . Therefore, the cognizance taken by referring the explanation to section 514 (3) of BNSS cannot be applied and Magistrate has misconstrued the law. Though the Magistrate relied on the decision in ***Roma Ahuja v. The State & Anr.*** (supra), wherein it was held in paragraph 7.2 that the complaint filed before the police is to be considered in the context of limitation, this Court, by referring to the Full Bench decision in ***Tara Dutt*** (supra) and the decision in ***A. Kaliyaperumal***, (supra) held that the institution of proceedings must be considered in the context of the case.

40. However, merely taking the case on file does not necessarily mean that cognizance has been taken. Further, even under section 473 of the Cr.P.C., no application was filed by the Investigating Officer seeking condonation of the delay, nor was any order passed by the Magistrate condoning the delay. Further, there is no speaking order that the delay is condoned at the interest of justice done by the Magistrate. Therefore, by looking at all



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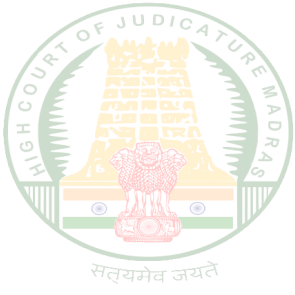
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angle, the case is abuse of process of law, wherein as per the settled law for limitation, the police has not filed the final report within one year from the date of registration of the F.I.R.

41. Here, in the present case, the F.I.R. was registered on 27.12.2020. Though the final report was filed online on 05.08.2022, it was submitted after the expiry of the period of limitation. Subsequently, the same was produced before the Court on 12.10.2025 for compliance with certain requirements, which is clearly barred by limitation. Therefore, the F.I.R in Crime No. 2709 of 2020 followed taking the case on file in S.T.C.No.2008 of 2026 on the file of the Judicial Magistrate No.V, Madurai is quashed. The point is answered, by allowing the quash petition, quashing the F.I.R in Crime No.2709 of 2020 on the file of the first respondent and taking cognizance in S.T.C.No.2008 of 2026 by the Judicial Magistrate No.V. Madurai.

42. In the result,

(i) this Criminal Original Petition is allowed;



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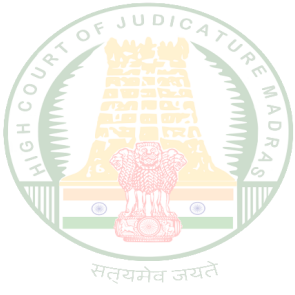
(ii) the F.I.R in Crime No.2709 of 2020 on the file of the first respondent and followed that taking the case on file in S.T.C.No.2008 of 2026 by the Judicial Magistrate No.V, Madurai, is hereby quashed;

(iii) The Commissioner of Police, Madurai City, is directed to take appropriate legal action against the investigation officer of Crime No.2709 of 2020 on the file of the first respondent and send his action taken report in three months from the date of receipt of this order as directed in paragraph No.31 of this order; and

(iv) Consequently, connected Miscellaneous Petition is closed.

14.10.2026

Internet: Yes/No
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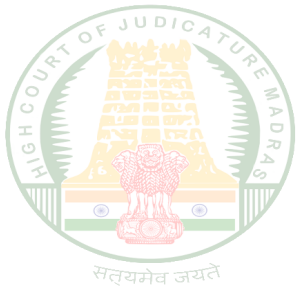
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To

1. The Commissioner of Police,
Madurai City.
2. The Inspector of Police,
S.S.Colony Police Station,
Madurai City,
Madurai District.
3. The Sub Inspector of Police,
S.S.Colony Police Station,
Madurai District.
4. The Judicial Magistrate No.V,
Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Note: Issue order copy on 14.10.2026.



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DR. P. MURUGAN, J.

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**Pre-delivery order made in
Crl.O.P(MD) No. 15408 of 2024**

14.10.2026