

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.10781 of 2015

Lakshmiammal

...Petitioner

vs.

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai.
2. The Superintendent of Police,
Nilgiris,
Nilgiris District.
3. The Inspector of Police,
E1, Kandal Police Station,
Ooty Rural,
Nilgiris District.
4. The Deputy Superintendent of Police,
CBCID, Nilgiris District.

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to transfer of the investigation in Crime No.2 of 2012 from the file of third respondent to the fourth respondent and the fourth respondent may take up further investigation and file additional charge sheet in C.C. No.2 of 2013 pending on the file of the Magalir Court, Ooty in the interest of justice.

For Petitioner : Mr.Ullasavelan
For Respondents : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

Seeking to transfer the investigation in Crime No.2 of 2012 from the file of third respondent to the fourth respondent and the fourth respondent may take up further investigation and file additional charge sheet in C.C. No.2 of 2013 pending on the file of the Magalir Court, Ooty, the petitioner has come up with this petition.

2. Heard the learned counsel for the petitioner and the Additional Public Prosecutor appearing for the respondents.

3. It appears that on a compliant lodged by the petitioner, the third respondent registered a case in Cr.No.2/2012 for offence under Sections 147, 148, 323, 448, 436, 307 I.P.C., and Section 3(1) of TNPPDL Act and 32 persons were shown as accused in the F.I.R. After completing investigation, the third respondent filed final report against 40 persons for offence under Sections 147, 148, 448, 352, 323, 436, 506(i) & 3(1) TNPPDL Act, 1992 and 352 r/w 149 I.P.C., 323 r/w 149 I.P.C., 436 r/w 149 I.P.C., 3(1) of TNPPDL Act r/w 149 I.P.C. Cognizance was taken on file by the learned Magistrate concerned in C.C.No.2/2013 and charges were framed against the accused and summons were issued to the petitioner and other witnesses for giving evidence. At that time, the petitioner filed a letter dated 01.04.2015 before the trial Court requesting the trial Judge to transfer the case from the file of the third respondent to the Central Branch- Criminal Investigation Department (CB-CID). In the said letter, the petitioner has not given any cogent reasons for transferring the case to CB-CID and she has made only vague allegations against the police officials who have conducted investigation. It is seen that though the F.I.R., was registered including for offence under Section 307 I.P.C., the same was omitted in the final report.

4. The learned counsel for the petitioner also submits that the respondent police included the name of Anish and Rajkannan also as accused in the F.I.R. But, in the final report, the name of Anish has been deleted and Rajkannan name has been changed to Rajkumar. The trial Court had rightly dismissed the said letter of the petitioner dated 01.04.2015 stating that it does not have the power to transfer the case to CB-CID. Hence, the petitioner has come up with this petition with the prayer to transfer the present case to CB-CID.

5. It is seen that the investigation has been completed and final report was filed way back in the year 2013. Though only 32 persons have been named in the F.I.R., the third respondent filed final report as against 40 persons. Even the discharge summary relied upon by the petitioner shows that the petitioner was assaulted by four known females at about 1.30 p.m., on the occurrence date, but, no serious injuries were suffered by the petitioner.

6. The learned counsel for the petitioner further submits that the Regional Medical Officer (RMO) of the Ooty Government Hospital where the petitioner taken treatment is closely related to the accused and therefore, the petitioner was forcibly discharged from the hospital.

7. Be that as it may, it appears that the Police have conducted investigation with the available materials and they have filed charge sheet against 40 persons for various offences aforesaid. At this juncture, it may not be desirable for this Court to transfer the case to CB-CID. If it is the grievance of the petitioner that the name of one person has been omitted in the charge sheet, it is open for the petitioner to file a protest petition before the concerned Court giving full details and on such protest petition being filed, the trial Court may pass orders in accordance with law.

8. At this juncture, the learned counsel for the petitioner would submit that there is a threat to the life of the petitioner. In my considered opinion, it is always open for the petitioner to make petition to the police seeking protection. If any such petition being filed by the petitioner, it is for the police to take action on the same in accordance with law.

9. With the above observations, the Criminal Original Petition is closed.

jbm

-s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai.
2. The Superintendent of Police,
Nilgiris,
Nilgiris District.
3. The Inspector of Police,
El, Kandal Police Station,
Ooty Rural,
Nilgiris District.
4. The Deputy Superintendent of Police,
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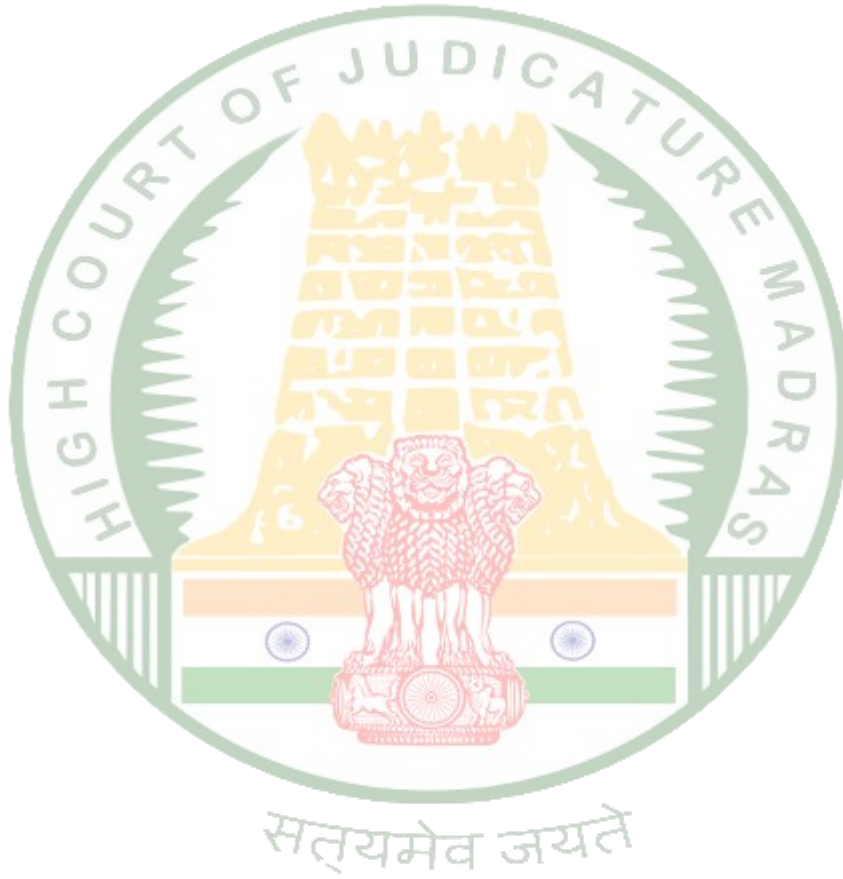
5. The Magalir Court, Ooty.

6. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.B.Ullasavelan, Advocate SR 23899

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