

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

CrI.O.P. No. 31277 of 2014
and
M.P.No.1 of 2014

M.Ravikumar

...Petitioner

vs.

1. The Deputy Superintendent of Police,
P.N.Palayam Sub Division, Coimbatore.
2. The Inspector of Police,
P.N.Palayam Police Station,
Coimbatore District.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to direct the 2nd respondent to alter the charge sheet in C.C.No.255/2013 on the file of the Mahila Court, Coimbatore by adding the names of the accused persons found in the FIR in Cr.No.315/2008 and to include the Section 304 B of IPC in the charge sheet.

For Petitioner : Mr.S.Washim Raja

For Respondents : Mr.D.Sivaram Kumar,
Govt.Advocate (Criminal Side)

O R D E R

This petition is filed seeking for a direction to alter the charge sheet in C.C.No.255 of 2013 on the file of the Mahila Court, Coimbatore by adding the names of the accused persons found in the FIR in Crime No.315 of 2008 and to include section 304B of the IPC in the charge sheet.

2. It is submitted by the learned counsel for the petitioner that originally, a case was registered in Crime No.315 of 2008 on the basis of the complaint given by the petitioner against Vijaya Kumar, Subramani, Pazhaniammal, Ganesh Kumar, for offence under Section 306 IPC and 174 of the Cr.P.C., and later, after investigation, charge sheet was filed only against Vijaya Kumar and others were let off. He also submitted that while filing charge sheet, the respondent police did not issue notice to the petitioner as contemplated under law and also as held by the Hon'ble Supreme court in the judgment reported in (1985) 1 MLJ (Cr1) 536 SC in the matter of Bhagwant Singh V. Commissioner of Police, and followed by this Court in Cr1.O.P.No.7994 of 2014 dated 9.10.2014 in S.Siva Versus the State and 10 others. He therefore submitted that the names of the other accused are to be included in the charge sheet and also Section 304 of the IPC is to be included and for that purpose, this petition is filed.

3. According to me, when the charge sheet is filed only against some persons by omitting some others' name found in the FIR, the police ought to give notice to the defacto complainant to enable him to file a Protest Petition.

4. In this case, it is submitted by the learned counsel for the petitioner that no notice was issued to the petitioner. As no notice was issued to the petitioner, the petitioner is entitled to file a Protest Petition before the Mahila Court, Coimbatore, seeking to alter the charge by including 304B of the IPC and also to include the name of the other accused on the basis of the Section 161 statement obtained during investigation.

5. Hence, this petition is disposed of by granting liberty to the petitioner to approach the Mahila Court, Coimbatore by filing a Protest Petition for alteration of charge and also for inclusion of other names and on receipt of the petition, the Mahila Court, Coimbatore is directed to consider the same and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

asvm

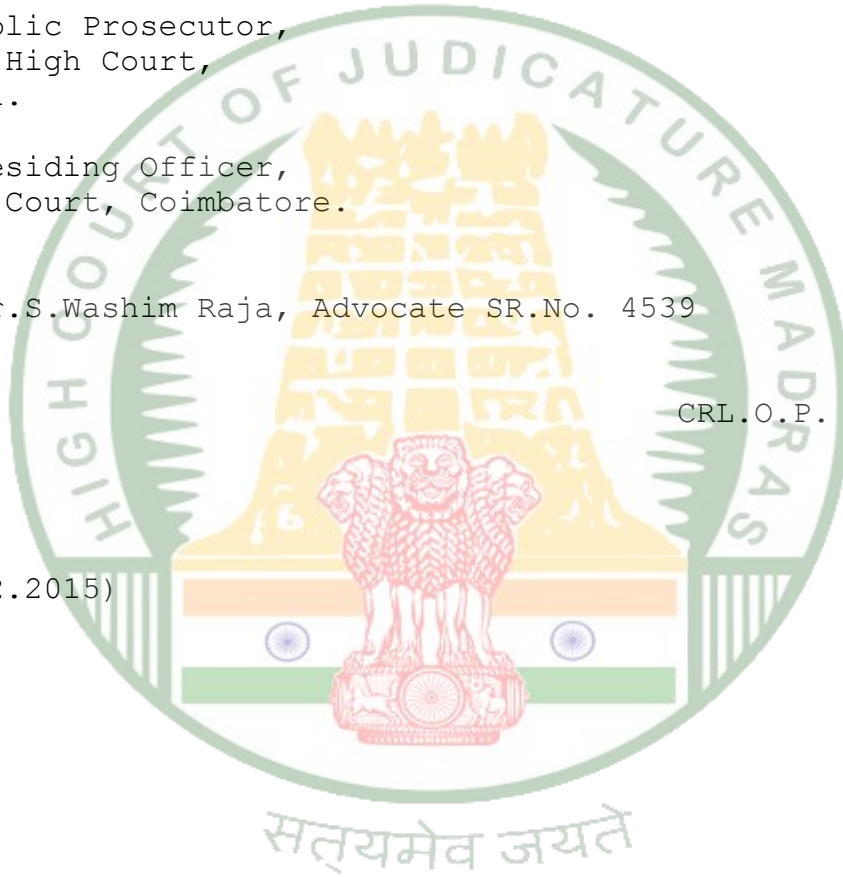
To

1. The Deputy Superintendent of Police,
P.N.Palayam Sub Division, Coimbatore.
2. The Inspector of Police,
P.N.Palayam Police Station,
Coimbatore District.
3. The Public Prosecutor,
Madras High Court,
Chennai.
4. The Presiding Officer,
Mahila Court, Coimbatore.

1 CC to Mr.S.Washim Raja, Advocate SR.No. 4539

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and
M.P.No.1 of 2014

CA (CO)
PSI (11.02.2015)



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