

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.26443 of 2015

B.Pramod

... Petitioner

Vs.

1. The Commissioner of Police,
Coimbatore Corporation,
Coimbatore.
 2. The Superintendent of Police,
Coimbatore Rural District,
Coimbatore.
 3. State by Sub-Inspector of Police,
B-10, Selvapuram Police Station,
Coimbatore City,
(Crime No.392 of 2015).
 4. State by Inspector of Police,
Thudialur Police Station,
Coimbatore Rural District.
- ... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying for a direction directing the respondents 1 & 2 to alter the FIR in Crime No.392/2015 on the file of the 3rd respondent with proper investigation to investigate in the matter connected to Crime No.392 of 2015, dated 28.09.2015 and file a charge sheet according to law at the earliest possible date.

For Petitioner : Mr.S.Ramesh Kumar

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

ORDER

This petition has been filed seeking to direct the respondents-Police to alter the FIR in Crime No.392/2015 by including the offences under Sections 307, 350, 362 & 441 IPC in the FIR

2. In the affidavit filed in support of the petition it has been stated by the petitioner that the petitioner is the owner of a shop viz., M/s. Ram Fancy Stores, situated at Chinnadagam, Veera Pandi Pirivu, which area falls within the jurisdiction of the 4th respondent-Police. On 26.09.2015 at about 4.00 pm, when the petitioner was in the shop along with a customer, one Mr. Naresh and three others came into the shop and told that the petitioner's relatives are waiting in his office and they wanted to meet him; thereafter, they closed the shop and took the key in their custody. Thereafter, they abducted the petitioner and kept him in a godwon situated at Thandagam Road, R.S. Puram, under illegal custody; they abused the petitioner in filthy language and assaulted the petitioner. It is further stated by the petitioner that the said Naresh and one Raja snatched bracelet, cell phone, one gold ring, three silver rings, cash Rs.3,100/-, ATM Card, Voter ID and Pan Card from the petitioner. Further, the said accused persons demanded Rs.3 lakhs from the family members of the petitioner. Thereafter, on 27.09.2015, the petitioner was rescued by his relatives and friends, from the illegal custody of the said accused persons. In this regard, a complaint was lodged by the petitioner with the respondents-Police and the 3rd respondent has registered FIR in Crime No.392 of 2015 only under Sections 75(1)(c) of TNCP Act and Sections 323 & 506(ii) IPC. According to the petitioner, the 3rd respondent-Police ought to have added the offences under Sections 307, 350, 362 & 441 of IPC also in the FIR. Hence, the petitioner has filed the present petition seeking to direct the respondents-Police to alter the FIR by including the offences under Sections 307, 350, 362 & 441 IPC in the FIR.

3. When the matter is taken up for consideration, the learned Additional Public Prosecutor submitted that the discharge summary does not reflect any external injuries on the body of the petitioner. Further, during the course of investigation, if the commission of offences under Sections 307, 350, 362 & 441 IPC is made out, the same will be included in the final report.

4.However, the learned counsel for the petitioner insisted that a direction could be given to the respondents-Police to include Sections 307, 350, 362 & 441 IPC, in the FIR.

5.Heard the submissions made on either side and perused the materials available on record.

6.As rightly pointed out by the learned Additional Public Prosecutor appearing for the respondent -Police, if during the course of investigation and examination of witnesses, the commission of the offences under Sections 307, 350, 362 & 441 IPC is made out, then, it is always open to the respondents-Police to file a final report including the said offences. Even assuming that such final report does not include the charges for the offences under Sections 307, 350, 362 & 441 IPC, it is open to the jurisdictional Court to include such charges while framing the charges if the materials on record warrant so. Hence, at this stage, it is not proper to direct the investigating agency to include the offences under Sections 307, 350, 362 & 441 IPC in the First Information Report.

7.With the above observation, this criminal original petition is disposed of.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Commissioner of Police,
Coimbatore Corporation, Coimbatore.
2. The Superintendent of Police,
Coimbatore Rural District, Coimbatore.
3. The Sub-Inspector of Police,
B-10, Selvapuram Police Station,
Coimbatore City, (Crime No.392 of 2015).

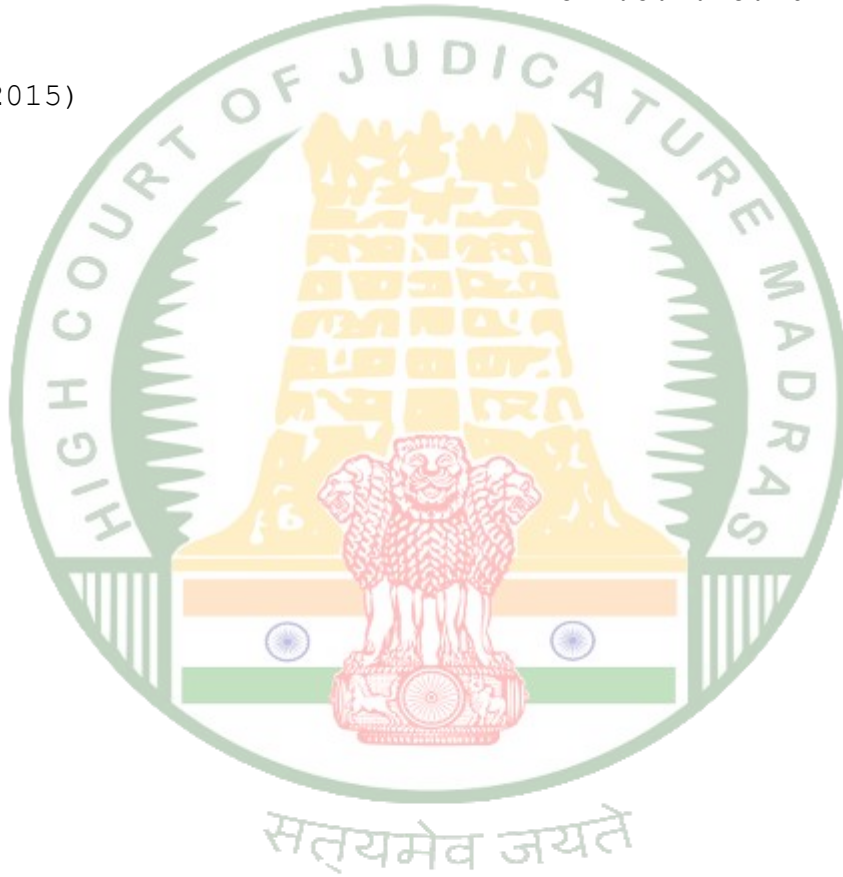
4. The Inspector of Police,
Thudialur Police Station,
Coimbatore Rural District.

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Ramesh Kumar, Advocate, S.R.No.60832

Cr1.O.P.No.26443 of 2015

SR(CO)
CA(24/11/2015)



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