

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.30064 of 2015

J.Boobathy

... Petitioner

Vs

State by

The Inspector of Police,
C.2 Periyapalayam Police Station,
Tiruvallur District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to alter and incorporate the sections 326 and 307 of IPC in Crime No.383 of 2015, dated 08.12.2015 on the file of the respondent.

For Petitioner : Mr.S.Sugendran

For respondent : Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

The present criminal original petition has been filed seeking a direction to the respondent to alter and incorporate the sections 326 and 307 of IPC in Crime No.383 of 2015, dated 08.12.2015 on the file of the respondent.

2. The petitioner herein has lodged a complaint as against Varadhan, Madhanraj, Sathish, Amulraj on 07.12.2015 and the respondent police has assigned C.S.R.No.419 of 2015 on the complaint of the petitioner. Subsequently, the respondent police has registered FIR in Crime No.383 of 2015 for the offences under sections 294(b), 374 and 506(i) against the said persons. It is the case of the petitioner that the said persons trespassed into the house of the petitioner and threatened him with dire consequences and they have also made an attempt to kill the petitioner and the petitioner sustained grievous injuries in the said occurrence. But the respondent police has not registered the case for the offences under sections 326 and 307 IPC. Hence, the petitioner has come forward with the present petition.

3. The learned Additional Public Prosecutor submitted that the investigation in this case is pending and in the course of investigation, if the commission of an offences under Section 326 and 307 I.P.C. is made out, the same will be included in the final report.

4. I have considered the submissions made on either side.

5. As rightly pointed out by the learned Additional Public Prosecutor, if during the course of investigation and examination of witnesses, the commission of offences under Sections 326 and 307 I.P.C. is made out, then, it is always open to the respondent to file a final report including the said offence. Even assuming that such final report does not include the charge for the offences under Section 326 and 307 I.P.C., it is open to the jurisdictional Court to include such a charge 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 offence under Section 302 I.P.C., in the First Information Report.

6. Hence, the criminal original petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vrc

To

1.The Inspector of Police,
C.2 Periyapalayam Police Station,
Tiruvallur District.

2. The Public Prosecutor,
High Court, Madras.

+ 1 cc to MR.Sugendran, Advocate Sr.69293

Cr1.O.P.No.30064 of 2015

MG(CO)
EU 7.1.16