

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.30093 of 2015

S.Jeeva

... Petitioner

Vs

1. The Commissioner of Police,
Chennai City,
Vepery, Chennai - 7.
 2. Mr.Shankaran,
Assistant Commissioner of Police,
G.5 Secretary Colony,
Chennai - 600 009.
 3. Mr.Yuvaraj,
Inspector of Police,
K.2 Ayanavaram Police Station,
Chennai.
- Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the first respondent to transfer the investigation in Crime No.1438 of 2015 pending on the file of the third Respondent Police to some other person under the jurisdiction of the first respondent other than the second and third respondents.

For Petitioner : Mr.S.Venkatesh

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

O R D E R

The present criminal original petition has been filed to direct the first respondent to transfer the investigation in Crime No.1438 of 2015 pending on the file of the third Respondent Police to some other person under the jurisdiction of the first respondent other than the second and third respondents.

2. The petitioner is the daughter-in-law of one Munusamy. She was married to one Senthil Kumar, who is the son of the said Munusamy. They are residing at Old No.30, New No.44, Pachaikal Veerasamy Street, Ayanavaram, Chennai - 600 023. The petitioner's father-in-law filed a suit for partition in O.S.No.8242 of 2011 pending on the file of the IV Assistant City Civil Court, Chennai against the accused persons Mohan, Raju, Malathi, who are brothers and daughter-in-law of the said Munusamy. In the said suit, a preliminary decree was passed in favour of the father-in-law of the petitioner. In order to take revenge, on 31.1.2015 in the evening hours, the accused persons have severely beaten the petitioner's mother-in-law and threatened the petitioner and all other family members to withdraw the above suit, otherwise the whole family of the petitioner will be killed. Immediately, the petitioner and her mother-in-law lodged a complaint before the third respondent, but no action was taken by the third respondent. Again on 17.3.2015, the petitioner was severely beaten by the accused persons and the petitioner once again lodged a complaint before the third respondent. The third respondent, who in turn conducted an enquiry in C.S.R.No.438 of 2015, has not registered the FIR against the accused persons.

3. Again on 28.6.2015, the accused persons came to the house of the petitioner and severely beaten the petitioner, who was 8 months pregnant at that time and tried to abort the child of the petitioner. The petitioner was immediately admitted in Kilpauk Medical College Hospital for the injuries sustained by her on her stomach and forehead. The petitioner was discharged from the hospital on 03.07.2015. Though, the hospital authorities informed to the third respondent about the said incident, but no action was taken by the third respondent. Therefore, on 29.6.2015, the petitioner sent the complaint to the respondents by registered post. The first respondent forwarded the said complaint to the third respondent, and the third respondent on 09.07.2015, registered a case under sections 448, 294(b), 323 IPC. As offence committed by the accused persons were very serious in nature, the third respondent ought to have registered under sections 315, 326, 327, 307 and 354 IPC. The third respondent is lethargic in conducting the investigation. Hence, the petitioner has come forward with the present Criminal Original Petition.

4. I have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

5. The learned counsel for the petitioner submitted that the respondent has registered the case against the accused under the bailable offences. In fact, the petitioner has been brutally attacked by the accused and she has sustained severe

injuries on her stomach and forehead. Hence, the offences committed by the accused will provoke sections 315, 326, 327, 307 and 354 IPC and the case was not registered under the said sections.

6. When the matter was taken up for consideration, the learned Additional Public prosecutor submitted that the investigation is in this case is in progress and during the course of investigation, any other offence is attracted, the same shall be included and the investigation will be done in a proper way and thus opposed for transfer of the case.

7. Considering the submissions of the learned Additional Public Prosecutor, as the investigation is in progress, this court cannot entertain this petition and the petition is liable to be dismissed.

8. Accordingly, this Criminal Original Petition is dismissed. However, this Court directs third respondent to investigate the investigation in Crime No.1438 of 2015 and file final report, as early as possible.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police,
Chennai City,
Vepery, Chennai - 7.
2. The Assistant Commissioner of Police,
G.5 Secretary Colony,
Chennai - 600 009.
3. The Inspector of Police,
K.2 Ayanavaram Police Station,
Chennai.

4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Venkatesh, Advocate, S.R.No.68507

Cr1.O.P.No.30093 of 2015

pa(CO)
srg(08/01/2016)



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