

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 11.02.2015

CORAM:

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN.**Cr1.R.C(MD)No.50 of 2015**

M.Anbukkarasi ... Petitioner/Defacto Complainant

Vs

The State Rep.by
The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District ... Respondent/Complainant

Prayer: Civil Revision Case filed under Section 397 read with 401 of the Code of Criminal Procedure, to call for the records of the learned II Additional District Munsif Cum Judicial Magistrate, Kumbakonam, taking cognizance of the Final Report in C.C.No.321 of 2014 and set aside the same and consequently direct the learned II Additional District Munsif Cum Judicial Magistrate, Kumbakonam to issue notice to the petitioner, thereby permit the petitioner to file appropriate protest petition or objections on the final report.

For Petitioner : Mr.V.Achuthan
For Respondent : Mr.P.Kandasamy
Govt.Advocate (crl.side)

ORDER

By consent, the Revision itself is taken up for final disposal.

2.The defacto complainant is the revision petitioner and aggrieved by the omission of Section 379 of IPC., while filing the final report, has come forward to challenge the final report dated 21.08.2014.

3.The learned counsel appearing for the petitioner would submit that on 11.07.2014, when she was in her house, both the accused came and abused her by using unparliamentary language and the first accused, who was armed with a stick, attacked her on the left leg and hands and the second accused kicked her on her left side and also took the Trunk Box. The third accused slapped her and consequently, she become unconscious and subsequently she was admitted as inpatient in Government Hospital, Kumbakonam, wherein, the jurisdictional police has recorded the counter statement.

4. According to the defacto complainant, in the Trunk Box she has kept Property Tax receipts, Documents and a sum of



Rs.15,000/-.. The FIR was registered on 21.07.2014 by the respondent in Crime No.100 of 2014 for the alleged commission of offences under Sections 294(b), 448, 323 and 379 of IPC., and investigation was taken up. The respondent while filing the final report on 20.08.2014, charging accused Nos.1 and 2 for the commission of offence under Sections 294(b), 448 and 323 of IPC and the 3rd accused for the commission of offence under Sections 294(b) and 323 of IPC.,

5. In the final report it has been stated among other things that there is a long lasting dispute on account of money and property between the defacto complainant and the 3rd accused. The respondent has filed alteration report on 21.08.2014 stating that during the course of investigation it has been revealed that the accused did not take away the Trunk Box and therefore altered the Sections into Sections 294(b), 448 and 323 of IPC.

6. Mr.V.Achuthan, the learned counsel appearing for the petitioner would submit that the contents of the FIR as well as the statement recorded under Section 161(3) of Cr.P.C., would disclose that Trunk Box was taken and therefore it would constitute the offence under Section 379 of IPC., and in the alteration report, the reason stated by the respondent that Trunk Box was not taken is not at all correct and in all fairness, the respondent ought to have charged the accused for the commission of offence under Section 379 of IPC.

7. Per contra, Mr.P.Kandasamy, the learned Government Advocate (crl.side) would submit that the respondent on a thorough investigation and collection of materials has rightly charged the accused for the commission of offence under Sections 294(b), 448 and 323 of IPC., and also produced the case diary.

8. This Court has considered the rival submissions and also perused the case diary and it disclose the fact that the defacto complainant was examined and her statement Under Section 161(3) Cr.P.C., was recorded on 21.07.2014 and it is in consonance with the contents of the FIR. Therefore, this Court is of the view that the alteration report dated 21.08.2014, omitting Section 379 of IPC., by the respondent is not in order.

9. In the result, the Revision Petition is disposed of and the respondent is directed to include Section 379 of IPC also in the final report and proceed further strictly in accordance with law.

Sd/-

Assistant Registrar(RTI)



To

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- 1.The II Additional District Munsif Cum
Judicial Magistrate, Kumbakonam,
- 2.The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Mpk

AA/20.02.2015/3p- 4c/

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