

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Cr1.O.P.No.1629 of 2016

Kaliayappa Boopathy

... Petitioner

Vs

State represented by
The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.
(Cr.No.266 of 2015)

... Respondent

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondent to alter the sections by adding Section 307 IPC with 294(b), 324 and 506(ii) IPC in Cr.No.266 of 2015 on the file of the respondent.

For Petitioner : Mr.P.Saravana Sowmiyan

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

* * * * *

ORDER

This petition has been filed seeking for a direction directing the respondent-Police to alter the offences in Cr.No.266 of 2015 by adding Section 307 IPC.

2.In the petition it has been stated by the petitioner that the petitioner is working in Electricity Board as Inspector. His wife is having Two Wheeler workshop and one Annadurai is working in the said workshop. The said Annadurai is residing in the house of the accused Sivagami for rent at Kovilpalayam. While so, on 17.12.2015 at 10.30 pm, the said Annadurai informed the petitioner through phone that the accused had quarrelled with him. Hence, the petitioner went to the said Annadurai's house along with his brother Manikaraj, Subramani to find out the reason for the quarrel. When enquired with the accused, the accused Sigavami informed that the said Annadurai has not paid the correct consumption charges for his house. After requesting not to quarrel with the said Annadurai,

when the petitioner was about to get into his car, the accused scolded the petitioner in filthy language and tried to stab the petitioner with a knife. Though the petitioner resisted the same, he sustained grievous injuries on his stomach and right wrist. When the neighbours came to the spot, the accused ran away from the spot, by saying that at any point of time, he will murder the petitioner. Immediately, the petitioner was admitted in a private hospital for first aid and thereafter, he was shifted to KMCH Hospital at Coimbatore for further treatment. In this regard, a complaint was lodged with the respondent-Police and the same was registered in Crime No.266 of 2015 for the alleged offences under Sections 294(b), 324 & 506(ii) IPC. According to the petitioner, the respondent-police ought to have register the case for the alleged offence punishable under Section 307 IPC also. Hence, the petitioner has come forward with the present petition for the relief as stated supra.

3. When the matter is taken up for consideration, the learned Additional Public Prosecutor submitted that the respondent-Police is conducting the investigation and in the course of investigation, if the commission of offence under Section 307 IPC is made out, the same will be included in the final report.

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

5. 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 offence under Section 307 IPC is made out, then, it is always open to the respondent-Police to file a final report including the said offence. Even assuming that such final report does not include the charge for the offence under Section 307 IPC, it is open to the jurisdictional Court to include such 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 307 IPC in the First Information Report.

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

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

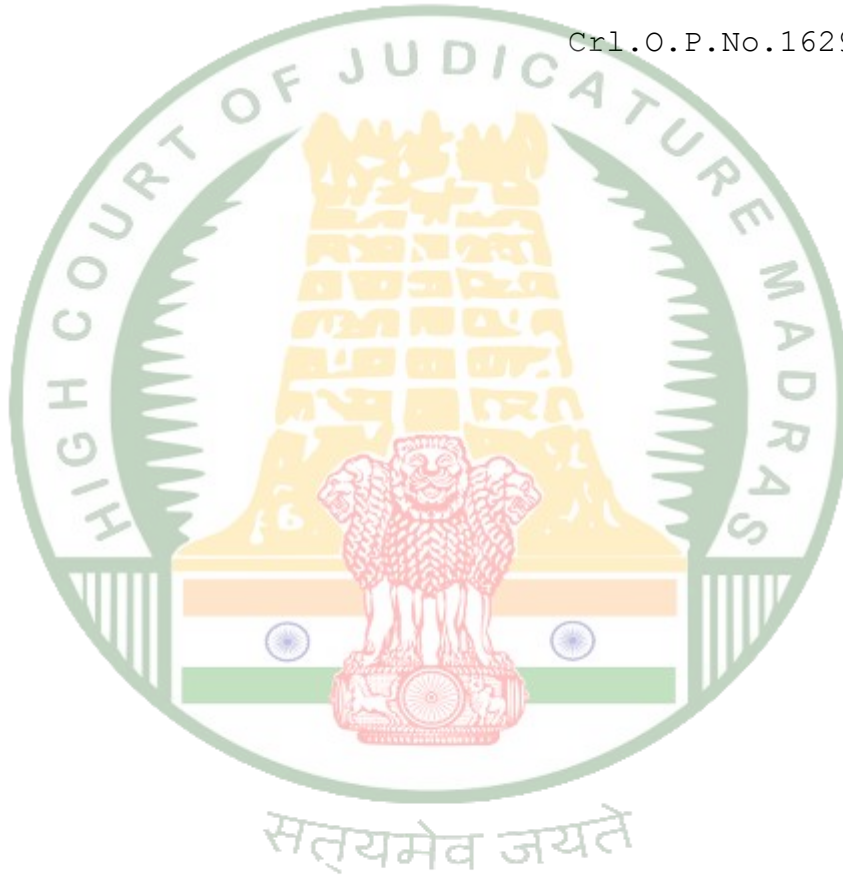
1. The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.

2. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.P.Saravanasowmiyan, Advocate SR 5358

nm(co)
prk5/2

Crl.O.P.No.1629 of 2016



WEB COPY