

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2016

CORAM:

THE HON'BLE Mr.JUSTICE R.SUBBIAH

Cr1.O.P.No.206 of 2016

A.Ramasamy

... Petitioner

Vs.

1. The State rep by Inspector of Police
Kaikalathur Police Station,
Perambalur District.
2. The District Superintendent of Police,
Perambalur District,
Perambalur.

... Respondents

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to issue a direction to the first respondent to alter the sections in Crime No.228 of 2015 and investigate and file the charge sheet by examining the witnesses under the supervision of the 2nd respondent in Crime No.228 of 2015 on the file of the 1st respondent dated 11.10.2015 against the accused persons within the stipulated period based on the complaint of the petitioner dated 28.10.2015.

For Petitioner : Mr.T.Gobinath

For Respondents : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition is filed for a direction to the first respondent to alter the sections in Crime No.228 of 2015 and investigate and file the charge sheet by examining the witnesses under the supervision of the second respondent in Crime No.228 of 2015 on the file of the first respondent dated 11.10.2015 against the accused persons within the stipulated period based on the complaint of the petitioner dated 28.10.2015.

2.In the petition it is stated that the petitioner is an agriculturist doing agriculture on his own land and survived by his wife and three sons. It is further stated that the petitioner's elder son is doing agriculture with the petitioner and the second son, namely, Rajasekar is a driver in rice harvesting vehicle who used to go for work in and around Tamil Nadu and that on 24.09.2015 around 10.00 p.m., the petitioner's son went to a shop in his village and there was a wordy quarrel between the petitioner's son and a group of people who had previous enmity with him.

3.It is further stated that on 25.10.2015, the petitioner's second son went outside informing the petitioner and he never returned home. Hence, the petitioner lodged a complaint in the local police station and since the petitioner's son was a driver who used to go for work in neighbour states, the local police refused to register a case and after a lapse of 15 days of sincere search by the petitioner and his family members, it was informed that the petitioner's son deceased Rajasekar motor cycle bearing registration no.TN - 54 - Y - 1968 was in the custody of the first respondent.

4.It is further stated that the petitioner and his family members were taken by the first respondent to the Pillankulam Reserve Forest and the body of the petitioner's son Rajasekar was identified by the petitioner in a decomposed stage, with cutting marks in the left leg of the deceased and the petitioner, suspecting that some persons could have murdered him informed the first respondent about the suspected persons who had previous enmity with the deceased Rajasekar. But the first respondent registered a case in Crime No.228 of 2015 under Section 174 of Cr.P.C. on 11.10.2015. Hence, the petitioner has come forward with this petition.

5.The learned counsel appearing for the petitioner submitted that the first respondent ought to have registered a case under Section 302 of IPC, but the case has been registered only under Section 174 of Cr.P.C. and thus prayed for appropriate orders.

6.The learned Additional Public Prosecutor submitted that the matter is pending enquiry with the Tahsildar and once the respondent receives the report from the Tahsildar and if the respondent during the course of enquiry comes to the conclusion that the section of law has to be altered, then the section will be altered.

7.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

8.As rightly pointed out by the learned Additional Public Prosecutor appearing for the respondents - Police, if during the course of investigation and examination of witnesses, the commission of the offences under Section 302 of IPC is made out, then, it is always open to the respondents - Police to file a final report including the said offence by altering the case registered under Section 174 of Cr.P.C. Hence, at this stage, it is not proper to direct the investigating agency to include the offences under Section 302 IPC by altering the case registered under Section 174 of Cr.P.C in the First Information Report.

9.Recording the submissions of the learned Additional Public Prosecutor, this criminal original petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police
Kaikalathur Police Station,
Perambalur District.
2. The District Superintendent of Police,
Perambalur District,
Perambalur.
3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.T.Gobinath, Advocate, S.R.No.1614

Cr1.O.P.No.206 of 2016

PUR(CO)
CA(27/01/2016)