

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Crl.O.P.No.6546 of 2016

K.Chandra

... Petitioner

Vs.

1. The Superintendent of Police,
Krishnagiri District,
Krishnagiri.

2. The Inspector of Police,
CBCID, Krishnagiri District,
Krishnagiri.

3. State rep. By
Inspector of Police,
All Women Police,
Hosur, Krishnagiri District.

4 Arunkumar @ Kumar

... Respondents

PRYER : The Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, 1973, seeking a direction, directing the second respondent herein to conduct the investigation in Crime No.14 of 2012 on the file of the Inspector of Police, All Women Police Station, Hosur, Krishnagiri by appointing the Inspector of Police, CBCID, Krishnagiri District the 2nd respondent herein to conduct the further in investigation in Crime No.14 of 2012 on the file of the 3rd respondent.

For Petitioner : Mr.S.Gunalan

For Respondents : Mr.C.Emalias

Additional Public Prosecutor
for R1 to R3

ORDER

The petitioner, who is the victim in the case in Crime No.14 of 2012 [S.C.No.79 of 2015 on the file of the Mahila Court, Krishnagiri] has filed this petition, to direct the second respondent for further investigation in the case in Crime

No.14 of 2012, which was registered on the file of All Women Police Station, Hosur, Krishnagiri, by appointing the Inspector of Police, CBCID, Krishnagiri District/the second respondent to conduct the further investigation in Crime No.14 of 2012 on the file of the third respondent.

2. Mr.S.Gunalan, the learned counsel appearing for the petitioner has submitted that based on the complaint lodged by the petitioner herein a case in Crime No.14 of 2012 was registered by the respondent police on 04.10.2012. It is apparent from the complaint lodged by the petitioner that two persons were involved in the case. However, after completion of the investigation, the respondent police was able to file charge sheet only against one accused leaving the other one without implication in the case. Now the charge sheet is taken on file. After completion of preliminary enquiry, a case was committed to the Court of Sessions and pending in S.C.No.79 of 2015. The trial is yet to be commenced. Learned counsel appearing for the petitioner has submitted that without implication of the other accused, there may not be any fair trial and the victim would be prejudiced and his rights to get the justice, would be deprived of.

3. On the other hand, the learned Additional Public Prosecutor has submitted that even as per the petition, the statement of the witnesses were recorded by the Investigating Officer and during the course of trial, even if all the witnesses speak about the other accused, who was left out by the respondent police, the petitioner can file an application to implicate the other accused in this case and therefore, he can avail the option of filing the petition and hence, no separate direction is necessary.

4. This Court, on a perusal of the averments of the affidavit filed in support of the petition and the statements of the witnesses given before the Investigating Officer, at the time of investigation, if the Court of Sessions finds from the evidence that the other person who is said to have been left out by the respondent police is also concerned in the alleged criminality, that person could be tried together with the present accused. Section 319 of the Code of Criminal Procedure empowers the Court of Sessions to join such other person as an accused in the proceedings before him so that he might not feel helpless where the prosecution have left out the offender intentionally or unintentionally. This principle is laid down by this Court in BHAGAT VS STATE [1997 CrI.LJ 617 Madras].

5. In view of the above, this Criminal Original Petition is disposed of with the liberty to the petitioner to file an application under Section 319 Cr.P.C., in the appropriate stage of the trial proceedings, according to law.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Superintendent of Police,
Krishnagiri District, Krishnagiri.

2.The Inspector of Police,
CBCID Krishnagiri District,
Krishnagiri.

3.The State by
The Inspector Of Police,
All Women Police Station,
Hosure, Krishnagiri District.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mrs.S.Gunalan, Advocate sr.18984

Crl.O.P.No.6546 of 2016

vsn(CO)
srg(07/04/2016)

सत्यमेव जयते

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