

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP No.9632 of 2016

P.Madesh

... Petitioner

Vs

Inspector of Police
Kadambur Police Station
Erode District
(Crime No. 50 of 2014)

... Respondent

Prayer:- Criminal Original Petition filed under Section 438 Cr.P.C., to direct the respondent police to include the names of Madappa and Nagu alias Nagendran in the Charge sheet in Crime No. 50 of 2014 on the file of the respondent police.

For Petitioner : Mr. M.V.Krishnan

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed seeking a direction to the respondent police to include the names of Madappa and Nagu alias Nagendran in the Charge sheet in Crime No. 50 of 2014 on the file of the respondent police.

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

3. On the complaint given by the petitioner, the respondent police registered a case in Cr.No. 50 of 2014 on 27.11.2014 for offences under Sections 147, 323 and 324 IPC against 7 named persons and after completing investigation, they filed a final report in respect of only 5 persons, namely Sami @ Kodugalsami (A1), Sivasami (A2), Belappa @ Maathesamy (A3), M.Madesh (A4) and Rajan (A5) and they omitted Madevappa and Nagu @ Nagendran. Therefore, the complainant is before this Court for a direction to the respondent police to include the names of Madevappa and Nagu @ Nagendran, as accused in the case.

4. In the considered opinion of this Court, a direction of this nature, cannot be issued to the respondent police under Section 482 Cr.P.C. However, when the final report drops action against certain named persons, it is incumbent on the part of the Magistrate to issue notice to the de-facto complainant and give an opportunity to file protest application, which has not been given in this case.

5. Under such circumstances, this Court grants liberty to the petitioner to file protest application within a period of four weeks from the date of receipt of a copy of this order in S.T.C.No.76 of 2015 before the learned Judicial Magistrate No.1, Gobichettipalayam and on such application being filed, the same shall be dealt with as per the law laid down by the Hon'ble Supreme Court in Vinay Tyagi Vs. Irshad Ali Alias Deepak and others reported in (2013) 5 Supreme Court Cases 762.

With the above direction, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sms

To

1.The Inspector of Police
Kadambur Police Station
Erode District

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.V.Krishnan, Advocate, S.R.No.29690

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PA(CO)
CA(04/07/2016)