



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.14528 of 2017

Anwar Basha : Petitioner/Defacto Complainant

-Vs-

1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2.The Inspector of Police,
Silaiman Police Station,
Madurai District.

: Respondents/Complainants

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to direct the second respondent police to include the name of other 3 accused and the penal Section 506(i) of IPC based on the petitioner's representation dated 19.09.2017 in connection with Crime No.575 of 2017 on the file of the second respondent Police dated 17.09.2017.

For Petitioner	: Mr.D.S. Haroon Rasheed
For Respondents	: Mr.K.S. Duraipandian Additional Public Prosecutor

O R D E R

This petition is filed for issuing a direction to the second respondent to include the name of other 3 accused and the penal Section 506(i) of IPC based on the petitioner's representation dated 19.09.2017 in connection with Crime No.575 of 2017.

2. The petitioner states that he lodged a complaint which was registered in Crime No.575 of 2017 against the individuals for the alleged offences punishable under Sections 294(b), 323 and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 2002. Later it is stated by the petitioner that subsequently, the first accused in the previous complaint brutally attacked the petitioner's wife and that therefore, the petitioner lodged a complaint as against the accused stating that the petitioner has requested the respondents 1 and 2 to include the name of the three more accused in the crime. It is further stated



that the respondent police did not take any steps to implead the other accused and that therefore, the petitioner is constrained to file this petition.

3. In support of his contention the learned counsel appearing for the petitioner relies upon Section 319 of Cr.P.C which reads as follows:

319. Power to proceed against other persons appearing to be guilty of offence: (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1) then-

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard,

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

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

5. Section 319 of Cr.P.C contemplates the application which can be filed before the Court. The Court alone is entitled to proceed against the stranger for the offence which he had committed. This Court cannot issue a direction to the respondents Police to include the name of three other accused persons who have done something after the case was filed. Hence, the Criminal Original Petition is dismissed as devoid of any merits.

Sd/-

Assistant Registrar(P&A)



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To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
- 2.The Inspector of Police,
Silaiman Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.D.S.Haroon Rasheed, Advocate, SR.No.84273

trp

RL/5C/2P/KP/SAR1/14/11/2017

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