

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.14753 of 2018

Tmt.Jayanthi

.. Petitioner

Vs

State Rep. by
The Inspector of Police,
Thalaivasal Police Station,
Salem
(Crime No.271 of 2012)

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Respondent Police viz., the Inspector of Police, Thalaivasal Police Station, Salem to file charge sheet in Cr.No.271 of 2012 within stipulated time.

For Petitioner : Mr.N.Sudharsan
For Respondent : Ms.Kritika Kamal
Govt. Advocate [Crl. Side]

O R D E R

This Criminal Original Petition has been filed to direct the respondent to file charge sheet in Crime No.271 of 2012 within a stipulated time.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate [Crl. Side] appearing for the respondent.

3.On 08.08.2012, a motor accident took place, in which, three vehicles were involved. Raju, the driver of vehicle No.TN19A 3906 sustained serious injuries and he was admitted to the hospital. In connection with the said accident, a case in Crime No.271 of 2012 was registered on 09.08.2012 under Section 279 and 337 IPC. Raju, who was taking treatment in the hospital died subsequently on the same day. Pursuant to which, the Police filed an alteration report dated 10.08.2012 adding Section 304-A IPC. Since there was no progress in the investigation, Jayanthi, the widow of Raju filed the present petition for a direction to the respondent Police to complete the investigation within a stipulated time.

4. On 21.06.2018, this Court passed the following order:

"When the matter was taken up for hearing, learned Govt. Advocate [Crl. Side] submitted that initially the Police registered a case in Cr.No.271/12 on 9.8.12 u/s 279 and 337 IPC. After the death of the injured, the Police filed an alteration report, altering the offence to one u/s 304-A IPC. She further submitted that the learned Judicial Magistrate-II, Athur has closed the case u/s 468 Cr.P.C.

Registry to call for a report from the Judicial Magistrate-II, Athur as to whether the case in Thalaivasal PS Cr.No.271/12 is still pending or whether the same has been closed. If closed, the Magistrate is directed to send a certified copy of the closure order.

Call on 5.7.2018."

5. Pursuant to the directions of this Court, learned Judicial Magistrate-II, Athur has sent a report dated 03.07.2018, wherein, she has stated as follows :

"I have joined as Judicial Magistrate at the office of the Judicial Magistrate No.II, Attur on 02.05.2016 as per the order of the Hon'ble High Court, Madras. I further humbly submit that, after receiving the official memorandum cited in the reference above, I have perused the entire case records in respect of Crime No.271 of 2012 Thalaivasal Police. And I found that the FIR along with the written complaint and alteration report was received by this Court on 14.08.2012. The original FIR had been registered u/s 279, 337 IPC and the same was subsequently altered as U/s 279, 304[A] IPC. But the staff concerned has registered the section in the FIR Index Book only U/s 279, 337 IPC.

I most humbly submit that, since the offence U/s 279, 337 IPC are punishable below six months then the officer had closed the FIR on 26.09.2013 U/s 468 Cr.P.C. since the Police have not filed any report within the stipulated time U/s 468 Cr.P.C.

I am humbly submitting herewith the certified copies of the case records as called for by the Hon'ble High Court of Madras."

Thus, from a reading of the report, it is seen that the case in Crime No.217 of 2012 has been inadvertently closed under Section 468 Cr.P.C. on 26.09.2013.

6. Accepting the report, this Court, in exercise of its power under Section 482 Cr.P.C., sets aside the order dated 26.09.2013 passed by the Judicial Magistrate Court No.II, Attur closing the FIR in Crime No.271 of 2012 under Section 468 Cr.P.C. and a further direction is given to the respondent Police to complete the investigation in Crime No.271 of 2012 within a period of three months from the date of receipt of a copy of this order and either file a Closure Report or a Charge Sheet as the case may be under due intimation to the de facto complainant.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. Judicial Magistrate Court No.II,
Attur.

2. The Inspector of Police,
Thalaivasal Police Station,
Salem.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Sudharsan, Advocate, S.R.No. 39253

CRL.OP.No.14753 of 2018

BM 17/07/2018.

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