

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.19306 of 2018

and

Crl.MP.No.10199 of 2018

B.Murugappan

...Petitioner

vs

1. The Superintendent of Police
Krishnagiri District
Krishnagiri.

2. The Inspector of Police
Gurubarapalli Police Station
Gurubarapalli
Krishnagiri District.

... Respondents

Criminal Original Petition has been filed under Section 482 Cr.P.C seeking a direction to the first respondent herein to conduct re-investigation of the case in Crime No.284 of 2016 corresponding to C.C.No.49 of 2017 before the Judicial Magistrate Court No.II, Krishnagiri and to file a final report by conducting free and fair re-investigation within the stipulated time.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.C.Raghavan,

Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed seeking a direction to the first respondent herein to conduct re-investigation of the case in Crime No.284 of 2016 corresponding to C.C.No.49 of 2017 before the Judicial Magistrate Court No.II, Krishnagiri and to file a final report by conducting free and fair re-investigation within the stipulated time.

2. On the complaint lodged by the petitioner, the respondent police registered a case in Crime No.284 of 2016 on 01.10.2016 for the offences under Sections 341, 294-B and 506(ii) IPC against two accused. After completing the investigation, the respondent police have filed a charge sheet in C.C.No.49 of 2017 before the Judicial Magistrate No.II, Krishnagiri for the said

offences. After charges were framed, summons was issued to the petitioner to give evidence. At this juncture, the petitioner is before this Court with the above prayer.

3. Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. Side) for the respondents-State.

4. The learned counsel for the petitioner submitted that the accused attempted to attack the de facto complainant with Aruval, however, the police have not registered the case under Section 307 IPC. He has also enclosed certain photographs in the typed set of papers.

5. Per contra, the learned Government Advocate (Crl. Side) refuted the contention.

6. At the outset, it is seen that even according to the complainant, no one was injured. The complainant has stated that the accused attempted to attack him with Aruval, but on the intervention of his daughter Sivaranjini, who had taken video of the incident, he was resisted. The FIR was registered on 01.10.2016 and the charge sheet was filed in the year 2017. Of course, the petitioner has given a representation to the police, pleading that the offence under Section 307 IPC should have been included.

7. In the opinion of this Court, it is for the police to form a opinion on the facts and circumstances of the case and this Court cannot give any direction to the police as to what offence should be included in the FIR. The role of Judiciary and the Executive in the matters relating to police investigation has been set out by the Privy Council in King Emperor vs. Khwaja Nazir Ahmad [(1943-44) 71 IA 203] which judgement has been approved by a catena of judgments of the Supreme Court. Hence, this Court does not find any reason to issue a direction as prayed for by the petitioner. However, liberty is given to the petitioner to assist the prosecution before the trial Court in the manner known to law.

With the above observations, this petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

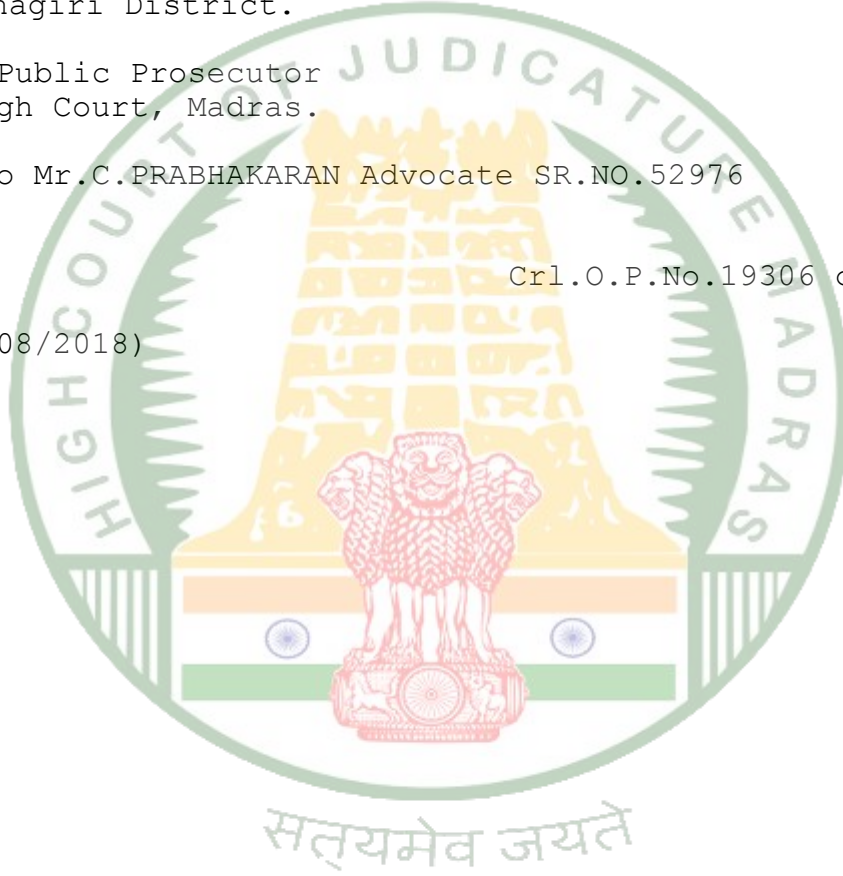
To

1. The Judicial Magistrate No.II,
Krishnagiri.
2. The Superintendent of Police
Krishnagiri District
Krishnagiri.
3. The Inspector of Police
Gurubarapalli Police Station
Gurubarapalli
Krishnagiri District.
4. The Public Prosecutor
High Court, Madras.

+1 cc to Mr.C.PRABHAKARAN Advocate SR.NO.52976

Cr1.O.P.No.19306 of 2018

NRL (CO)
ASK(06/08/2018)



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