

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Cr1.O.P.No.23162 of 2018

P.Priyanka

... Petitioner

Vs

1. The Commissioner of Police,
The Office of the Commissionerate of Chennai,
Vepery, Chennai - 600 007.
2. The Inspector of Police
R7, K.K. Nagar Police Station,
Chennai - 78

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 2nd respondent to alter the FIR in Crime No.366 of 2018 on the file of the 2nd respondent for the offences under Sections 306, 322, 327, 405, 415, 498A and 506(ii) of the IPC instead of Section 309 of IPC.

For Petitioner : Mr.C.B.Santhosh Kumar

For Respondents : Ms.M.Prabhavathi
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to direct the 2nd respondent to alter the FIR in Crime No.366 of 2018 on the file of the 2nd respondent police, for the offences under Sections 306, 322, 327, 405, 415, 498A and 506(ii) IPC, instead of Section 309 IPC.

2. It is seen that the petitioner attempted to commit suicide and was saved. Thereafter, a case in Crime No.366 of 2018 was registered against the petitioner for the offence under Section 309 IPC. Now, it is the grievance of the petitioner that an offence under Section 306 IPC should have been registered against her husband and therefore, the petitioner is before this Court with the above prayer.

3. Heard the learned counsel for the petitioner, who submitted that the petitioner was subjected to cruelty by her husband and therefore, she attempted to commit suicide. Under such circumstances, the learned counsel for the petitioner submitted that a direction should be issued to the police to alter the FIR.

4. Unlike the Code of Civil Procedure, where the pleadings can be amended, an FIR cannot be amended under the Code of Criminal Procedure. Of course, an alteration report can be filed by the police if, during the course of investigation, evidence relating to the commission of other offence(s) surfaces. In the case of King Emperor Vs. Khwaja Nazir Ahmad [(1943-44) 71 IA 203], which judgment has been approved by a catena of judgments of the Supreme Court, the PRIVY COUNCIL has clearly held that the power of the police to conduct investigation is an executive function and Judiciary cannot issue a direction as to how the case should be investigated.

5. That apart, after the petitioner had survived, there is no question of registration of a case under Section 306 IPC. As regards allegations of cruelty, it is always open to the petitioner to give a fresh complaint to the police, alleging cruelty against her husband.

With the above observations, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police,
Office of the Commissionerate of Chennai,
Vepery, Chennai - 600 007.

2. The Inspector of Police
R7, K.K. Nagar Police Station,
Chennai - 78.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.B.Santhoshkumar, Advocate, S.R.No.67282

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GSP(17/10/2018)