

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1409 of 2019

C.Raj

... Petitioner

-Vs-

The State rep by its,
The Inspector of Police,
North Tiruppur,
Tiruppur City.

... Respondent

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to direct the learned Judicial Magistrate No.I, Tiruppur, to alter the charge in respect of a Section 324 to Section 326 of Indian Penal Code in C.C.No.262 of 2018, on the file of Judicial Magistrate No.I, Tiruppur.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for a direction to the Court below to alter the charges from Section 324 to Section 326 of IPC.

2. It is seen from the records that the FIR was registered, based on the complaint given by the petitioner in Crime No.217 of 2018 for offence under Sections 147, 294(b), 323, 324, 506(2) of IPC, as against four accused persons. The investigation was completed and the final report was also filed before the Judicial Magistrate No.I, Tiruppur. The charges were framed and the prosecution witnesses were also examined. Presently the case is at the stage of questioning under Section 313 of Cr.P.C.

3. The learned counsel for the petitioner submitted that the materials available on records clearly makes out of an

offence under Section 326 of IPC. In spite of the same, the Court below has not altered the charges and the Court below is proceeding further with the case only with those offences as mentioned in the final report.

4. The learned counsel for the petitioner brought to the notice of this Court the judgment of the Hon'ble Supreme Court of India in State of Haryana vs. Rajesh Aggarwal & Another reported in 2018 AIR (SC) 3998, wherein the Hon'ble Supreme Court of India has upheld the charges altered by the Hight Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

5. It must also be kept in mind that alteration of charges can be done only based on the materials collected by the Court below in the course of trial. Therefore, it will always be safe to leave the discretion to the trial Court in this regard. The Hon'ble Supreme Court in the judgment Anant Prakash Sinha @ Anant Sinha v. State of Haryana reported in 2016 (2) MLJ (Cr1) 294 (SC), has categorically held that charges can be altered even based on the petition filed by the defacto complainant who can bring to the notice of the Court, the relevant materials which are necessary for the purpose of altering the charges. It will also be relevant to rely upon the Hon'ble Supreme Court in C.B.I. vs. Karimullah Osan Khan reported in 2014 (2) MLJ (Cr1) 114 (SC).

6. In view of the above, liberty is granted to the petitioner to file an appropriate application under Section 216 of Cr.P.C. by bringing to the notice of the Court the necessary materials for the purpose of alteration of charges. The Court below shall consider the same and pass appropriate orders in accordance with law and in accordance with the settled principles enunciated by the Hon'ble Supreme Court in the judgment referred supra.

7. This Criminal Original Petition is disposed of with the above direction.

Sd/-

Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

ssr/kal

To

1.The Judicial Magistrate No.I, Tiruppur.

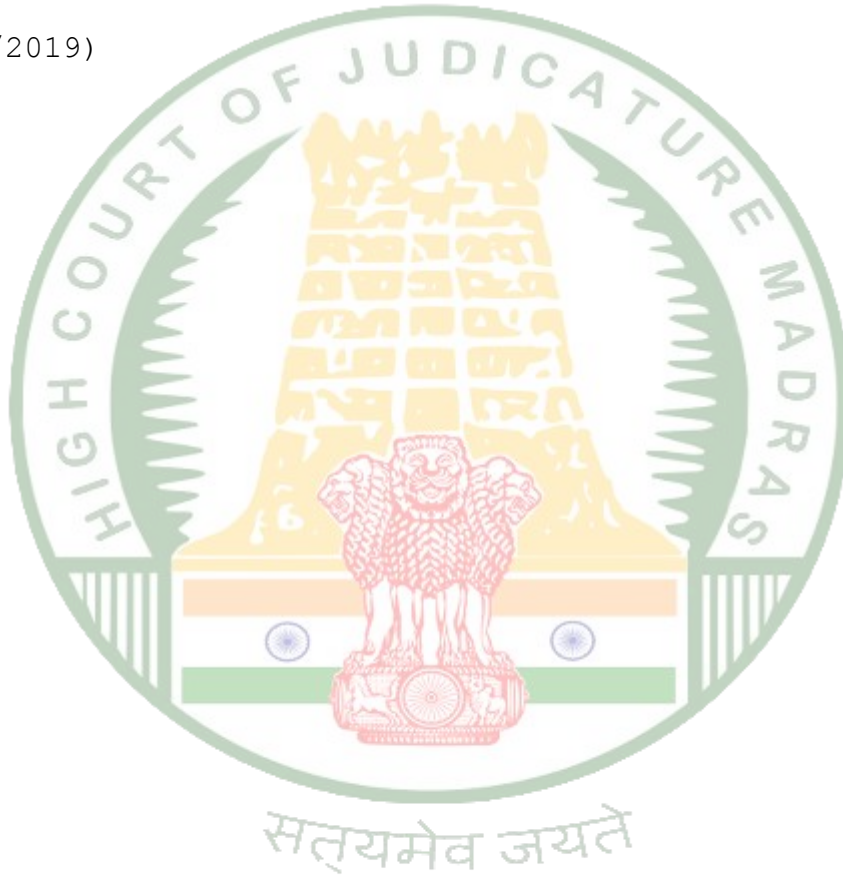
2.The Inspector of Police,
North Tiruppur,
Tiruppur City.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Myilsamy, Advocate SR.No.4599

Cr1.O.P.No.1409 of 2019

GMV (08/02/2019)



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