

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 05.04.2019

CORAM  
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No. 6995 of 2019  
and  
CrI.M.P.Nos.3859 and 8896 of 2019

Shanmugaraj ... Petitioner/Defacto Complainant

Vs.

- 1.The Inspector of Police,  
Ammamet Police Station,  
Erode District.  
(Crime No. 213 of 2017) ... Respondent/Complainant
- 2.The Deputy Superintendent of Police,  
Bhavani, Erode District. ... Respondent
- 3.Annamalai. ... Respondent/Accused

PRAYER: This criminal original petition is filed under Section 482 of CR.P.C to quash the F.I.R in Crime No. 213 of 2017 and the charge sheet in the case in C.C.No.30 of 2018, on the file of JM Bhavani and direct the 2nd respondent to file the F.I.R on the basis of the complaint dated 01.07.2017 and to further investigate himself without assigning to his sub ordinates, collect materials of wound certificate at the Government Hospital Andhiyur and also the discharge summary, scan reports of the petitioner from the Erode Trust Hospitals and to file a final report of charge sheet for offences punishable under Section 307 of I.P.C against the three accused persons namely Annamalai, Chitra and Ganesh Kumar in the concerned Court according to law U/S 173(8) of Cr.P.C.

For Petitioner : Mr.Karunakaran

For Respondents 1 and 2: Mr.M.Mohamed Riyaz  
Additional Public Prosecutor

For Respondent 3 : Mr.R.Nalliyappan

O R D E R

This petition has been filed by the defacto complainant on the ground that the allegations made in the complainant and the injuries sustained by the defacto complainant, will clearly constitute an offence under Section 307 of I.P.C and that the

same was not added as an offence both in the First information Report as well as in the final report filed by the respondent police.

2. It is seen from the records that the F.I.R has been registered for an offence under Section 324 of I.P.C and on the completion of the investigation, final report has been filed Under Section 326 of I.P.C and the same has been taken cognizance and the charges has been also been framed against the accused persons for offence under Section 326 of I.P.C. At this stage the present petition came to be filed before this Court.

3. The learned counsel for the petitioner submitted that the Court below at the time of taking cognizance of the charge sheet must have framed charge for offence under Section 307 of I.P.C and the Court below failed to do the same. The learned counsel further submitted that there are two more accused persons who are involved in this case and their names have also been left out from the final report.

4. The learned Additional Public prosecutor submitted that the materials that were collected by the respondents/police at the time of investigation only revealed an offence U/s 326 of I.P.C and the accused persons who were involved in the crime have been shown as an accused in the final report.

5. The learned counsel further submitted that the case is now at the stage of trial, and P.W.1 has already been cross examined. The learned counsel appearing on behalf of the 3<sup>rd</sup> respondent submitted that the trial has already commenced before the Court below and there is no scope for interference, at this stage. The learned counsel further submitted that there are absolutely no materials to

show that there was an attempt murder by the petitioner and therefore there is no requirement for framing a charge sheet under Section 307 of I.P.C.

6. This Court has carefully considered the submissions made on either side and perused the materials available on record.

7. The defacto complainant was the person who had sustained injuries in this case, due to the alleged attack by the accused persons. It is always left open to the defacto complainant to explain the entire incident before the Court below. The Court below will also have the advantage of examining other witness. If during the course of trial, the Court is able to find any material for altering the charges and adding any other offence, the same can always be done by the trial Court in exercising its powers under Section 216 of Cr.P.C.

8. Similarly if any other accused persons are involved in the attack and their names have not been shown in the final report, the trial Court always has the powers under Section 319 of CrI.P.C to add any person as an accused based on the materials collected in the course of enquiry or trial.

9. When such wide powers are available to the trial Court, this Court cannot entertain the present petition filed by the defacto complainant and grant relief as sought for in the petition. It is left open to the trial Court to decide on the alteration of charges and the addition of accused person based on the materials collected during the course of trial. This Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

smn/dpq

To.

1. The Inspector of Police,  
Ammamet Police Station,  
Erode District.  
(Crime No. 213 of 2017)

2. The Deputy Superintendent of Police,  
Bhavani, Erode District.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.56457

+2ccs to Mr.M.V.Karunakaran, Advocate, S.R.No.56273

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and

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RRS (09/07/2019)

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