

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Cr1.O.P No.11484 of 2019

P.Suresh

Petitioner

vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
E.V.K. Sampath Salai,
Vepery, Chennai - 600 007.
2. The Deputy Commissioner of Police,
Anna Nagar District,
Chennai - 600 040.
3. The Assistant Commissioner of Police,
Villivakkam Circle,
Chennai - 600 049.
4. The Inspector of Police,
V1, Villivakkam Police Station, Gudalur,
Villivakkam,
Chennai - 600 049.

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Crime No.575 of 2018 on the file of 4th respondent to any other competent Officer within the jurisdiction of the 2nd respondent herein under his supervision.

For Petitioner : Mr.C.Jayaprakash

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

ORDER

This petition has been filed seeking for transfer of investigation.

2. The respondent police have filed a status report before this Court and explained the investigation that has been conducted by taking statement from the witnesses. It is stated that the investigation has been completed and the charge sheet will be laid before the jurisdictional Court at any time.

3. The learned counsel for the petitioner submitted that the respondent police have registered an FIR for an offence under Section 304(A) of IPC. The learned counsel for the petitioner submitted that the respondent police ought to have added Section 304(ii) of IPC, since the materials collected also make out a case of culpable homicide not amounting to murder. On this ground the petitioner has sought for the transfer of investigation.

4. The ground raised by the learned counsel for the petitioner does not warrant transfer of investigation. The final report is yet to be filed and at the time when the Court below takes cognizance of the offence, the Court below can always see if there are sufficient materials to take cognizance for an offence under Section 304(ii) of IPC. Even in the course of trial if sufficient materials are placed before the Court, the Court can always alter/add the offence under Section 304(ii) of IPC based on the evidence available.

5. In view of the above, this Court is not inclined to transfer the investigation at this stage and the petitioner can always workout his remedy as suggested by this Court herein above.

6. This Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

ssr

To

1. The Commissioner of Police,
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4. The Inspector of Police,
V1, Villivakkam Police Station, Gudalur,
Villivakkam,
Chennai - 600 049.
5. The Public Prosecutor,
High Court of Madras,
Madras.

+lcc to Mr.C.Jayaprakash, Advocate SR.No.50283

Crl.O.P No.11484 of 2019

SSD(CO)
GMY(10/07/2019)



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