



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.(MD)No.1612 of 2017

&

Crl.M.P.(MD)No.1323 of 2017

Panchatsaram, S/o.Muthusamy

... Petitioner/Petitioner

Versus

1. A.Surendran

2. The State Rep. by
The Inspector of Police,
Mayanoor Police Station,
Mayanoor,
Karur District.

... Respondents/Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the order dated 09.09.2016, passed in Crl.R.C.No.25 of 2016, on the file of the Magalir Fast Track Court, Karur, set aside the same and consequently, direct the learned Judicial Magistrate No.II, Kulithalai, to take cognizance of appropriate Penal Provisions of IPC in the proceedings of C.C.No.77 of 2016, on the file of the Judicial Magistrate Court No.II, Kulithalai, Karur District.

For Petitioner : Mr.R.Murugappan

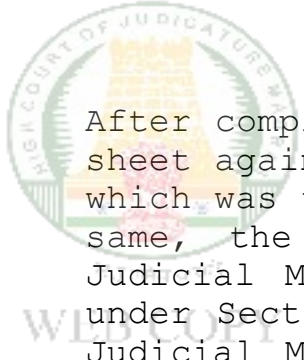
For R1 : No Appearance

For R2 : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order dated 09.09.2016, passed in Crl.R.C.No.25 of 2016, on the file of the Magalir Fast Track Court, Karur, and consequently, direct the learned Judicial Magistrate No.II, Kulithalai, to take cognizance of appropriate Penal Provisions of IPC in the proceedings of C.C.No.77 of 2016, on the file of the Judicial Magistrate Court No.II, Kulithalai, Karur District.

<https://hcservices.courts.gov.in/hcservices/> to the petitioner, earlier, based on the complaint given by him, a case in Crime No.582 of 2007 has been registered against the first respondent under Sections 341 and 324 IPC.



After completing investigation, the second respondent filed charge sheet against the first respondent under Sections 341 and 323 IPC, which was taken on file as C.C.No.143 of 2008. Aggrieved over the same, the petitioner has filed a protest petition before the Judicial Magistrate Court No.II, Kulithalai, to include offences under Sections 294(b), 324, 307 and 506(ii) IPC, but, the learned Judicial Magistrate, rejected his protest petition. Challenging the same, the petitioner has preferred CrI.R.C.No.30 of 2010 before the Sessions Court, Karur District and the same was allowed on 21.07.2011. Thereafter, the learned Magistrate treated the petitioner's protest petition as a private complaint and took cognizance of the offences under Sections 294(b) and 506(ii) IPC against the first respondent. Aggrieved over the same, the petitioner has filed CrI.R.C.No.25 of 2016 before the Mahila (Fast Track) Court, Karur, for not taking cognizance for the offences under Sections 324 and 307 IPC. The learned Judge dismissed the said CrI.R.C. On 09.09.2016. Aggrieved over the same, the petitioner has filed the present Criminal Original Petition for the relief stated supra.

3.The learned counsel appearing for the petitioner submitted that the evidence of the petitioner clearly make out an offence punishable under Section 307 IPC and both the Courts below have failed to consider the same.

4.On perusal of the complaint and the sworn statement of the petitioner and witnesses, it could be seen that the first respondent alleged to have throttled the petitioner's neck by his two hands, but there is no material available to show that the first respondent has an intention or knowledge to commit murder the petitioner. Considering the materials, both the Courts below have come to the conclusion that no case is made out for the offence under Section 307 IPC and rejected the petitioner's claim. I find no irregularity or illegality in the orders passed by the Courts below. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

smn2

To

1. The Judge,

<https://hcservices.ecgms.gov.in/hcservices/>
Magalir Fast Track Court,
Karur.



2. The Judicial Magistrate No.II,
Kulithalai,
Karur District.

3. The Inspector of Police,
Mayanoor Police Station,
Mayanoor,
Karur District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.Murugappan, ADVOCATE IN SR No.68353

CrI.O.P.(MD)No.1612 of 2017

KS(05.07.2019) 3 P 6 C