



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.8676 of 2020

A.Potharaja

... Petitioner

Vs.

1.The Superintendent of Police,
Madurai,
Madurai District.

2.The Deputy Superintendent of Police,
Usilampatti Taluk,
Madurai District.

3.The Inspector of Police,
Sindhupatti Police Station,
Usilampatti Taluk,
Madurai District.
(Crime No.648 of 2020)

... Respondents

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to direct the first respondent to transfer the investigation in Crime No.648 of 2020 from the file of the third respondent to any other competent officer.

For Petitioner : Mr.G.Kannan

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the first respondent to transfer the investigation in Crime No.648 of 2020, from the file of the third respondent to any other competent investigation officer.

2.Mr.G.Kannan, learned counsel appearing for the petitioner would submit that during the relevant point of time, nearly 14 persons unlawfully trespassed into the property of the petitioner/de-facto complainant and assaulted his family members by using Aruval with an intention to cause death, which would attract the provisions of Sections 307, 326, 327, 442, 447, 448 and 34 I.P.C., however, a case has been registered against them by the third respondent police only for the offences under Sections 147, 148, 323, 324 and 506(ii) IPC and Section of 4 of Tamil Nadu Prohibition of Harassment of Women Act. Therefore, change of



3.Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that in the alleged occurrence, only three persons were injured and so far the wound certificate relating to the injury sustained by them has not been obtained. He would further submit that all the accused in this case had already been granted the relief of anticipatory bail by the learned Principal District Judge, Madurai. However, the learned Additional Public Prosecutor undertakes that if the injury sustained by the victims is grave in nature, the third respondent police is ready to alter the Sections of Law as prayed for by the petitioner.

4.Upon considering the arguments advanced by the learned counsel appearing on either side, it is not in dispute that without seeing the wound certificate pertains to the injured, nobody can imagine the injury sustained by them is grievous in nature. Further, it is also necessary to see whether the said injury is likely to cause death of a person.

5.In any event, recording the undertaking given by the learned Additional Public Prosecutor that if the injury sustained by the victims is grave in nature, the third respondent police is ready to alter the Sections of Law, this Criminal Original Petition is closed, as no further order is necessary in this matter. However, considering the facts and circumstance of the case, it would be appropriate to direct the second respondent to monitor the investigation in Crime No.648 of 2020 periodically till the filing of final report.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn2

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Superintendent of Police,
Madurai,
Madurai District.

2.The Deputy Superintendent of Police,
Usilampatti Taluk,
Madurai District.

3.The Inspector of Police,
Sindhupatti Police Station,
Usilampatti Taluk,
Madurai District.

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

+1 CC to Mr.G. KANNAN, Advocate (SR-14998[F] dated 26/08/2020)

CRL OP(MD)No.8676 of 2020
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KM (04.09.2020) 3P 6C