



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

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THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

CrI.O.P. (MD)No.15098 of 2020

S.Annalakshmi

... Petitioner

Vs.

1. The Deputy Superintendent of Police,
Theni Sub Division, Theni.

2. State rep.by its
Inspector of Police,
Palanichettypatti Police Station,
Theni District.

3.Selvaraj

4.Murugan

5.P.Jeyarani

6.B.Murugan

7.Arumugam

8.Nagaraju

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent to file additional charge sheet by adding the fourth to eighth respondents as accused No.2 to No.7 as per the statements of witnesses under Section 161 (3) Cr.P.C., in PRC.No.4 of 2020 on the file of the learned Judicial Magistrate, Theni.

For Petitioner : Mr.A.Jeyaram

For R1 & R2 : Mr.V.Neelakandan,
Additional Public Prosecutor.

ORDER

This criminal original petition has been filed to direct the first respondent to file additional charge sheet by adding the fourth to eighth respondents as accused No.2 to No.7 as per the statements of witnesses under Section 161 (3) Cr.P.C., in PRC.No.4 of 2020 on the file of the learned Judicial Magistrate, Theni.

<https://hcservices.courts.gov.in/hcservices/> 2. The learned counsel appearing for the petitioner would submit



that the petitioner is the defacto complainant in PRC.No.4 of 2020 on the file of the learned Judicial Magistrate, Theni. Though the content of FIR reveals the Section 306 IPC clearly attacks as against the private respondents herein, the second respondent police has registered a case under Section 174 Cr.P.C., instead of Section 306 IPC. The petitioner's son/deceased gave statement to the second respondent that due to harassment made by the private respondents herein, he consumed arali seeds. However, the above said persons are not added as accused in the case. Hence, the petitioner filed the present petition seeking the aforesaid relief.

3.The learned Additional Public Prosecutor appearing for the first and second respondents, on instructions, would submit that the petitioner has to approach the concerned Judicial Magistrate by filing a petition under Section 319 Cr.P.C.

4.Section 319 Cr.P.C., reads as follows:

"319. Power to proceed against other persons appearing to be guilty of offence.

(1)Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

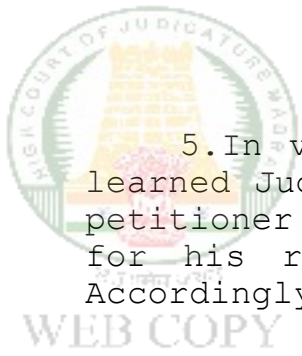
(2)Where such person is not attending the Court he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3)Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4)Where the Court proceeds against any person under subsection (1)then—

(a)the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;

(b)subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced."



5. In view of the above, there is always power vested with the learned Judicial Magistrate to add a person as accused. Hence, the petitioner has to approach the learned Judicial Magistrate, Theni for his remedy by filing a petition under Section 319 Cr.P.C. Accordingly, this criminal original petition is dismissed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

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 Judicial Magistrate,
Theni
2. The Deputy Superintendent of Police,
Theni Sub Division, Theni.
3. The Inspector of Police,
Palanichettypatti Police Station,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Jeyaram, Advocate, SR.No.26542.

Cr1.O.P. (MD)No.15098 of 2020

SV2 (CO)

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