



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.15474 of 2021

K.Bharathi @ Bharathiraja ... Petitioner/Defacto Complainant

Versus

1. The Superintendent of Police,
Nithimedu, Salem,
Salem District.
2. The State Rep by Inspector of Police,
Mecheri Police Station,
Salem, Salem District. ... Respondents/Respondents
3. Senbakam. ...Respondent/Sole Accused

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw the FIR in Crime No.1055 of 2020 pending on the file of the Inspector of Police, Mecheri Police Station, Salem, Salem District by transferring the same to any one of the police station under the supervision of the 1st respondent.

For Petitioner : M/s.B.Thirumalai.

For Respondent : Mr.A.Damodaran
Government Advocate (Crl Side)
for R1 & R2

ORDER

This Criminal Original Petition has been filed to transfer the FIR in Crime No.1055 of 2020 from the first respondent to any other police station.

2. The contention of the petitioner is that when the



petitioner had gone to his native to visit the temple on 08.11.2020, his wife/3rd respondent had assaulted the petitioner and caused grievous injuries and a case in Crime No.1055 of 2020 for the offences under Sections 294(b), 324 and 506(ii) IPC came to be registered and no action taken so far. Hence, the present petition.

3. The learned counsel for the petitioner would submit that despite the petitioner had sustained grievous injuries, the respondent police has not taken any action to include the offence under Section 307 IPC. Earlier, the petitioner had filed a petition in Crl.O.P.No.11945 of 2021 for including 307 IPC, in which, the learned Government Advocate, on instructions, submitted that the petitioner appeared before the respondent police and undertook to withdraw the petition and recording the said submission, the said petition was closed on 13.07.2021. The contention of the petitioner is that he had not given any such undertaking as stated by the respondent police in the said petition. Hence, he has got apprehension that the second respondent police would not conduct proper investigation.

4. The learned Government Advocate (Crl.side) submitted that on 13.07.2021, the Crl.O.P.No.11945 of 2021 was listed and since there was no representation on behalf of the petitioner, the contention of the petitioner could not be heard. On the instructions given by the respondent police, such representation was made and the case has been closed. Now, investigation has been completed and charge sheet to be filed within 2 months. He further submitted that the dispute is between the husband and wife and they got 2 girl babies, who are aged about 7 and 5 years, namely, Viz., Shruthika Sri and Vinushiya. The marriage between them took place 7 years back and now, the petitioner had deserted them and not taking care of his wife and children. Now, he wants the divorce from the 3rd respondent and making allegations as if 307 offence is made out and the respondent police is not conducting proper investigation. In this case, the investigation has been properly conducted. The respondent police had visited the scene of occurrence, prepared Observation Mahazar, Rough Sketch, enquired the witnesses, who were present in the scene of occurrence and also obtained statement from the Doctor, who treated the petitioner. Now, awaiting for the medical records and charge sheet is yet to be filed. The petitioner, who brook personal vengeance against the 3rd respondent, is making such false allegations against her. He would further submit that after getting the medical records and opinion, if any offence of grievous nature is made out, the section would be altered.

5. This Court considered the submissions made on either side and perused the materials available on records carefully.



6. Considering the submissions and on perusal of the materials, it is admitted that two daughters are with the 3rd respondent and the petitioner has not taken care of them. He neither morally nor financially supported them, instead, registered the case against the 3rd respondent, who is taking care of the two girl babies. It was also stated that if any offence of grievous nature is made out, the section would be altered and, final report would be filed within 2 months.

7. In view of the same, the respondent police is directed to file final report within a period of 2 months from the date of receipt of a copy of this order. After filing the final report, if the petitioner has got any grievance, he may raise such objection before the concerned .

8. With the above observation and directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Superintendent of Police,
Nithimedu, Salem,
Salem District.
2. The Inspector of Police,
Mecheri Police Station,
Salem, Salem District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Thirumalai, Advocate, S.R.No.45082

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SR-II (CO)
SU (06/10/2021)