

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.18700 of 2020

S.Sundarrajan

...Petitioner

.Vs.

State rep.by

The Sub Inspector of Police,
Orathur Police Station,
Cuddalore District.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to conduct further investigation for altering the charge sheet for the offences under section 307, 323, 325, 109, 341, 34 apart from Section 294(b), 323, 506(i) of IPC r/w 75 Juvenile Justice Act and include other offenders Jhansirani and Samuel as accused No.2 and 3 in C.C.No.251 of 2018, on the file of the Judicial Magistrate No.II, Chidambaram.

For Petitioner : Mr.M.Vijaya Kumar

For Respondent : Mr.M.Mohamed Riyaz
(Crl.Side)

Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed for a direction to the respondent to add certain persons as accused persons and to alter the offences by adding certain offences.

2.It is seen from records that a Final Report has already been filed before the learned Judicial Magistrate II, Chidambaram for an offence u/s 294(b), 323, 506(i) IPC r/w Section 75 of the Juvenile Justice Act. The grievance of the petitioner is that some of the accused persons have not been added in the Final Report and the materials available before the respondent Police clearly makes out an offence u/s 307 and 325 of IPC r/w Section 34 IPC.

3.The petitioner instead of filing a petition before the Court below, has approached this Court seeking for further investigation.

4.The Hon'ble Supreme Court has revisited the entire law on the subject and it was held that the Magistrate can order for a further investigation even after taking cognizance of the Final Report till the commencement of trial. Useful reference can be made to the judgment of the Hon'ble Supreme Court in Vinubhai Haribhai Malaviya and Others .v. State of Gujarat and Another reported in (2019) 3 MWN CrI. 349. It is brought to the notice of this Court by the learned counsel for the petitioner that the trial is yet to commence in this case. In view of the above judgment of the Hon'ble Supreme Court, it is always left open to the petitioner to go before the Court below and file an appropriate application seeking for further investigation, if the petitioner is not satisfied with the Final Report filed by the respondent Police. On such application being filed, the Court below can deal with the same strictly in accordance with law by considering the facts of the case and in accordance with the judgment of the Hon'ble Supreme Court referred supra. It will suffice if this liberty is granted to the petitioner in this criminal original petition.

5.This criminal original petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP
To

1.The Sub Inspector of Police,
Orathur Police Station,
Cuddalore District.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.M.Vijayakumar, Advocate Sr.No. 630

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BR(CO)
RMP(05/02/2021)