



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P. (MD)No.2647 of 2019

WEB COPY

Rajamani

W/o.Muthusamy

... Petitioner/ Petitioner/
P.W.1, De-facto Complainant
Vs.

1.The Inspector of Police,
Kannivadi Police Station,
Kannivadi,
Dindigul District,
Dindigul.

... 1st Respondent/ 1st Respondent/
Complainant

2.Palanichamy,
S/o.Chinnu Moopanar

3.Amsavalli,
W/o.Annamalai

... 2nd & 3rd Respondent/ 2nd & 3rd Respondent/
Accused 1 & 2

4.Annamalai
S/o.Veluchamy

5.Vignesh @ Vigneshwaran
S/o.Annamalai

6.Nirmala Devi
S/o.Annamalai

...Respondents 4 to 6/
Respondents 4 to 6, Proposed Accused

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned Judicial Magistrate No.II, Dindigul to number the application filed by the petitioner under Section 319 of Cr.P.C in unnumbered Cr.M.P Diary Nos.17739 and 19940 of 2018 and to dispose of the same on merits and in accordance with law.

For Petitioner	: Mr.A.Saravanan
For Respondents	: Mr.Sivakumar for R1 Government Advocate Mr.S.C.Herold Singh for R2 to R4

O R D E R

This petition is filed to direct the learned Judicial Magistrate No.II, Dindigul to number the application filed by the petitioner under Section 319 of Cr.P.C in unnumbered Cr.M.P Diary Nos.17739 and 19940 of 2018 and to dispose of the same on merits and in accordance with law.



2.Heard both sides.

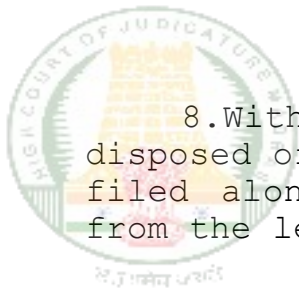
3.The investigation has been completed and the final report was also filed before the learned Judicial Magistrate No.II, Dindigul. On 27.06.2012, the respondent police submitted an alteration report to the learned Judicial Magistrate No.II, Dindigul by deleting the respondents 4 to 6 herein/accused 3, 4 and 5. Thereafter, the petitioner has sent a representation to the Superintendent of Police, Dindigul to direct the first respondent police to add the Accused Nos.3 to 5 in the Charge sheet to face the trial. The said representation duly received and acknowledged by the Superintendent of Police, but no action has been taken.

4.On 20.07.2017, the petitioner has been examined as P.W.1 in Chief. During the course of examination, the petitioner has categorically deposed each of the accused persons and their respective overt act. Since, in her categorical evidence and the overt act played by all the accused persons including the deleted accused persons, the Public Prosecutor has filed an application under Section 319 of Cr.P.C to add the Accused Nos.3 to 5 in the said case and the same was dismissed without giving an opportunity to the petitioner, especially who being the victim/complainant as well as P.W.1 and also stated that the Investigation Officer has filed the said petition in the form of affidavit and not by a petition that too signed by the Public Prosecutor.

5.The petitioner has filed an application under Section 319 Cr.P.C and the same were diary numbered as 17739 and 19940 of 2018. The learned Magistrate No.II, Dindigul has returned the said applications on 01.12.2018 stating that already similar application filed by the first respondent was dismissed and how the present application filed by the petitioner is maintainable.

6.On perusal of the records, it shows that the deleted accused persons and their role played in the alleged occurrence has been specifically pointed out in the F.I.R. Even though, the respondent police deleted their names in the charge sheet, the petitioner has filed a petition under Section to 319 Cr.P.C to implead the deleted accused and the same was also dismissed without assigning any reason.

7.Considering the facts and circumstances of this case, this Court directs the petitioner to re-present all the relevant papers along with the petition under Section 319 Cr.P.C and the learned Judicial Magistrate No.II, Dindigul shall number the petition filed by the petitioner within a period of fifteen days from the date of receipt of a copy of this order and thereafter decide the same in accordance with law after giving necessary opportunities to the parties.



8.With the above directions, this Criminal Original Petition is disposed of. Registry is directed to return all the original papers filed along with this petition, after getting due acknowledgment from the learned counsel for the petitioner.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 No.II,
Dindigul.

2.The Inspector of Police,
Kannivadi Police Station,
Kannivadi,
Dindigul District,
Dindigul.

3.The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

4.The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-37164[F] dated 03/12/2021)

+1 CC to M/s.A.SARAVANAN, Advocate (SR-36697[F] dated 01/12/2021)

CrI.O.P. (MD)No.2647 of 2019

01.12.2021

__RD(20.01.2022) 3P 7C