



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.1950 of 2022

S.Vallimayil

... Petitioner

Vs.

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

2.The Deputy Superintendent of Police,
Melur,
Madurai District.

3.The Inspector of Police,
Kottampatti Police Station,
Madurai District,
in Crime No.369 of 2021.

4.Padhamanaban

...Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the investigation pending in Crime No.369 of 2021 on the file of the third respondent herein to any other competent officer.

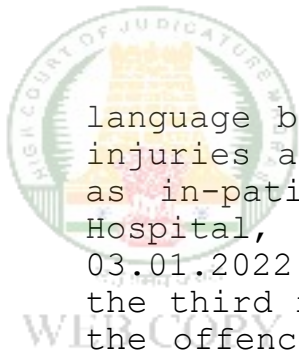
For Petitioner : Mr.R.Aravind Raja

For R1 to R3 : Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to transfer the investigation pending in Crime No.369 of 2021 on the file of the third respondent herein to any other competent officer.

2. The case of the petitioner is that there was a previous enmity between the mother of the petitioner and the accused persons. While being so, on 26.12.2021, when the mother of the petitioner was residing in her mother's house namely Laxmi, the accused persons trespassed into the house of the defacto complainant's mother, attacked her, damaged the house and abused her mother in filthy



language by indicating the caste name. Due to which, she sustained injuries and she was immediately taken to the hospital and treated as in-patient. Thereafter, she was referred to Government Rajaji Hospital, Madurai for better treatment. However, she died on 03.01.2022. Thereafter, on the complaint lodged by the petitioner, the third respondent registered the case in Crime No.369 of 2021 for the offence under Sections 294(b), 323, 324, 427 and 506(2) of IPC and 4 of TPHP Act.

3. The deceased belongs to SC/ST Community and though there are specific allegations that the accused persons scolded the petitioner's mother in filthy language by indicating the caste name, the third respondent failed to register the case under the SC/ST Act. Hence, the petitioner had sent a representation seeking alteration of offence to Section 302 of IPC and include the offence of SC/ST Act in the First Information Report.

4. The learned Government Advocate submitted that even in the post-mortem report, there was no external injury. Further, there is no circumstance warranting to alternate the offence into Section 302 IPC.

5. Even though the offence under Section 302 IPC will not attract, the complaint lodged by the petitioner reveals that the accused persons scolded the mother of the petitioner in filthy language by indicating the caste name. Therefore, the third respondent ought to have registered the case under SC/ST Act. In view of the above, the investigation in Crime No.369 of 2021 pending on the file of the third respondent is hereby withdrawn and transferred to the second respondent for investigation. On receipt of the same, the second respondent is directed to complete the investigation and file a final report within a period of 12 weeks from the date of receipt of a copy of this order.

6. Accordingly, the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To:

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



2.The Deputy Superintendent of Police,
Melur,
Madurai District.

3.The Inspector of Police,
Kottampatti Police Station,
Madurai District

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

Crl.O.P. (MD)No.1950 of 2022
21.03.2022

ssb
MS/30.03.2022/3P.5C