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Crl.O.P.No.17500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17500 of 2023

Ragupathi

.. Petitioner

Vs.

1. The Inspector of Police,
Erode Taluk Police Station,
Erode District.

2. Thiyaneshwaran

3. Parvathi

.. Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial magistrate, Additional Mahila Court, Erode to frame appropriate charges in CC No.01 of 2023.

For Petitioner : M.Guruprasad

For Respondent No. : A.Damodharan
Additional Public Prosecutor
Madras High Court.

ORDER

This Criminal Original petition has been filed for a direction to the learned Judicial Magistrate, Additional Mahila Court, Erode



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to frame appropriate charges in CC No.01 of 2023.

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2. Heard Mr.M.Guruprasad, learned counsel for the petitioner and A. Damodaran, learned Additional Public Prosecutor for 1st respondent.

3. The respondent police on completion of investigation has filed a final report before the Court below and the same has been taken on file in CC No.1 of 2023 and the Court below has taken cognizance for offences under Section 294(b), 324, 506(ii) IPC. According to the petitioner, the materials that are available on record will clearly bring this case for offences under Section 294(b), 323, 324, 307 and 506(ii) IPC. In view of the same, the petitioner is seeking for a direction to the Court below to alter the charges which have already been framed.

4. In the considered view of this Court, the power of the Trial Court to alter the charges under Section 216 of Cr.PC is an exclusive power vested for the Court and generally, neither the defacto complainant nor the accused / nor the prosecution can seek for any addition / alteration



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of the charges.

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5. This Court exercising its jurisdiction under Section 482 of Cr.PC cannot keep on micro managing the proceedings that are pending before the Trial Court. All the materials pertaining to the case is available with the Trial Court and it is left open to the Trial Court to alter the charges considering the materials and the offence made out and such power is available to the Court till a final judgment is passed in the case. Therefore, this Court leaves it open to the Court below to consider the materials available and to take a decision as to whether the charges will have to be altered. Except giving this clarity, no further orders can be passed in this criminal original petition.

6. This Criminal Original petition is disposed of with the above directions.

07.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To

1. The Judicial magistrate, Additional Mahila Court, Erode
2. The Inspector of Police,
Erode Taluk Police Station,
Erode District.
3. The Public Prosecutor
Madras High Court, Madras.



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N.ANAND VENKATESH, J

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