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Crl.O.P.(MD)No.21161 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.11.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

Crl.O.P.(MD)No.21161 of 2023

Valli

... Petitioner

Vs.

1.The Superintendent of Police,
Ramanathapuram District.

2.The Inspector of Police,
Nainar Kovil Police Station,
Ramanathapuram.

3.Balamurugan

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to issue a direction to the 2nd respondent to conduct the investigation and to file the alteration report in FIR No.150 of 2023 on the file of the 2nd respondent police station.

For petitioner : Mr.B.Mahendrarajan

For Respondents : Mr.M.Vaikkam Karunanithi for R1 & R2
Government Advocate (Crl. Side)



ORDER

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This petition has been filed seeking direction to the 2nd respondent to conduct the investigation and to file the alteration report in FIR No. 150 of 2023 on the file of the 2nd respondent police station.

2.The petitioner is the mother-in-law of the accused. The accused married the elder daughter of the petitioner and there is some dispute between them. Hence, the petitioner's elder daughter left the matrimonial home and was living with the petitioner. During this time, the accused barged into the house of the petitioner, damaged the house and assaulted the petitioner with a deadly weapon namely aruval. In the circumstances, she made a complaint before the respondent police. The respondent police registered the case under 'Sections 294(b), 324, 427 of IPC'. After the registration of the case, the respondent police conducted the investigation without adding the offence under 'Section 307 of IPC' and 'Section 3 of TNPPDL Act'. Hence, the petitioner made representation to the Superintendent of Police on 20.10.2023. Though the same was received by the Superintendent of Police, no action was taken sofar. Hence, this petition has been filed seeking direction to conduct the investigation and file the alteration report in FIR No.150 of 2023.



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3.The learned counsel for the petitioner would submit that the nature of injuries clearly made out the offence under 'Section 307 of IPC' as per the Judgement passed by the Honourable Supreme Court in the case State of *M.P. v. Harjeet Singh* reported in **2019 (20) SCC 524**. Further the accused caused damages to the properties worth about Rs.1,00,000/-. Hence, in all fairness, the investigating agency, should have included TNPPDL Act, as per the order of the Division Bench of this Court in Crl.R.C.(MD).No.869 of 2022, which was confirmed by the Hon'ble Supreme Court in S.L.P.Crl.No.11692 of 2023, observing that TNPPDL Act is applicable to the private property also.

4.The learned Government Advocate (Crl. Side) would submit that the injury is simple injury and the investigating agency included the offences under Section 427 of IPC and there is no necessity to alter the offence under Section 307 of IPC and the TNPPDL Act. The investigation in this case has already been completed and final report also was filed before the learned Judicial Magistrate, Paramakudi, which has not been taken on file.

5.This Court considered the rival submissions and perused the records and also the law laid down by the Hon'ble Supreme Court in



2023 3 MLJ (Cri) 161 SC.

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6. As held by the Hon'ble Supreme Court in the case of ***State through Central Bureau of Investigation vs. Hemendhra Reddy and Another*** reported in **2023 3 MLJ (Cri) 161 SC**, it is not necessary to hear the accused, while considering the application for further investigation.

7. Admittedly, the accused trespassed into the house of the petitioner and damaged the entire house. Apart from that he caused injuries with a deadly weapon on the head of the petitioner. In the said circumstances, as rightly pointed out by the learned counsel, the offence under Section 307 of IPC is made out on the basis of the Judgment of Honourable Supreme Court in the case ***State of M.P. v. Harjeet Singh, (2019) 20 SCC 524 at page 530***

5.6.1. If a person causes hurt with the intention or knowledge that he may cause death, it would attract Section 307.

In State of M.P. v. Kanha, (2019) 3 SCC 605 at page 609

13. The above judgments of this Court lead us to the conclusion that proof of grievous or life-threatening hurt is not a sine qua non for the offence under Section 307 of the Penal Code. The intention of the accused can be ascertained from the actual injury, if any, as well as



from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intent. of 'Kotwar Vs. State of Jharka'.

8. Further, as per the order passed by the Honourable Division Bench of this Court in Crl.R.C.(MD).No.869 of 2022 confirmed by the Hon'ble Supreme Court in S.L.P.Crl.No.11692 of 2023, TNPPDL Act is applicable to the destruction of the private property also.

9. Hence, in the interest of justice, the investigating agency has to conduct further investigation.

10. In view of the said circumstances, this Court hereby directs the Superintendent of Police, Ramanathapuram, to appoint Deputy Superintendent of Police, Paramakudi, to conduct further investigation, by incorporating the relevant offences and file the additional final report before the learned Judicial Magistrate, Paramakudi within a period of **two months** from the date of receipt of a copy of this order. The learned Judicial Magistrate, Paramakudi, shall keep the final report in abeyance till the conclusion of the further investigation by the Deputy



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Superintendent of Police Paramakudi. After receipt of the additional final report by the Deputy Superintendent of Police, Paramakudi, the learned Judicial Magistrate shall proceed the case in accordance with law.

11.With the above said directions, this criminal original petition stands allowed.

24.11.2023

Index : Yes/No
Internet : Yes/No
TM



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To

- 1.The Superintendent of Police,
Ramanathapuram District.
- 2.The Inspector of Police,
Nainar Kovil Police Station,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN. J.

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