



CrI.O.P.No.2940 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.2940 of 2024

Dheivasigamani
S/o.Maarimuthu

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Vikramangalam Police Station,
Ariyalur District.
Crime No.175 of 2023

2.Devi
W/o.Kamaraj

3.Ranjangam
S/o.Murugaiyan

4.Kamaraj @ Kamarasu
S/o.Manikkam

5.Manikkam
S/o.Saminathan

6.Sekar
S/o.Appadurai

7.Pushpavalli
W/o.Sekar

8.Lakshmi
W/o.Manikkam

... Respondents



Crl.O.P.No.2940 of 2024

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the charge sheet in C.C.No.239 of 2023 on the file of Judicial Magistrate I and direct the first respondent herein to further investigate and lay final report within the prescribed time stipulated by this Court.

For Petitioner : Mr.T.Muruganatham

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]

ORDER

This Criminal Original Petition has been filed questioning the final report that has been filed before the Court below in Crime No.175 of 2023 and which has been taken on file in C.C.No.239 of 2023, on the ground that the police had intentionally dropped the charge u/s.379 IPC in spite of the petitioner specifically making necessary allegations at the time of giving the complaint and also at the time of recording her statement u/s.161 Cr.P.C.

2. Heard Mr.T.Muruganatham, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first respondent.



Crl.O.P.No.2940 of 2024

WEB COPY

3. The petitioner gave a complaint to the effect that on 13.09.2023, the Tahsildar had fixed a date for measurement of the land. In order to prevent such survey of land, it is alleged that the second respondent had engaged some henchmen and they entered the property and abused the petitioner and her family members and also attacked them. That apart, the accused persons also took away cash of Rs.5,00,000/- that was kept by the petitioner in a two-wheeler. Based on this complaint, a First Information Report came to be registered in Crime No.175 of 2023 for various offences including the offence under Section 379 IPC.

4. The grievance of the petitioner is that a final report was filed before the Court below, which was taken on file in C.C.No.239 of 2023 and while filing the final report, the police had intentionally not included the charge u/s.379 IPC. Therefore, the petitioner has questioned the final report and has also sought for further investigation in this case.

5. Learned Additional Public Prosecutor appearing on behalf of the first respondent justified the act of the police in dropping the charge u/s.379 IPC based on the statement that was recorded from the petitioner



Crl.O.P.No.2940 of 2024

u/s.161(3) Cr.P.C. Learned Additional Public Prosecutor also read the relevant portion in the Section 161 Cr.P.C. statement.

6. The petitioner while giving the complaint had specifically stated about the taking away of a sum of Rs.5,00,000/- from the two wheeler. However, when the statement of the petitioner was recorded, it has been recorded as if the said amount was not taken away and that the petitioner had given an exaggerated version at the time of giving the complaint. In view of the same, the charge u/s.379 IPC has been dropped from the final report and the final report has been filed only for the other offences. The police is also trying to justify their stand on the basis of the statement that was recorded from the other eye witnesses.

7. In the considered view of this Court, no useful purpose will be served in ordering for further investigation in this case. This will only result in further delay in the progress of the case. Ultimately, the statement that was recorded u/s.161 Cr.P.C. is not treated as an evidence before the Court. What is treated as an evidence before the Court is the oral deposition that is made by the witness before the Court in the dock.

Therefore, it will always be left open to the petitioner to depose before



CrI.O.P.No.2940 of 2024

the Court regarding the incident that had taken place in this case.

Similarly, the eye witnesses, who had seen the incident can also depose before the Court regarding the incident that had actually taken place. It is based on this deposition, the offence u/s.379 IPC will be made out. The trial Court is given very vast powers u/s.216 Cr.P.C. to alter the charge at any stage of the trial till the final judgment is passed. Therefore, just because a charge u/s.379 IPC has been dropped in the final report, that does not bring the matter to an end. The trial Court always has the power to alter the charges based on what emerges during the enquiry/trial. This observation made will sufficiently take care of the grievance that has been expressed by the petitioner.

This Criminal Original Petition is disposed of in the above terms.

13.02.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

gm



WEB COPY



Crl.O.P.No.2940 of 2024

N.ANAND VENKATESH, J

gm

To

- 1.The Judicial Magistrate I,
Jayamkondam.
- 2.The Inspector of Police,
Vikramangalam Police Station,
Ariyalur District.
Crime No.175 of 2023
- 2.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.2940 of 2024

13.02.2024