

S. Sudalaikumar Vs. The Superintendent of Police Tirunelveli District, Palayamkottai and Others

S. Sudalaikumar Vs. The Superintendent of Police Tirunelveli District, Palayamkottai and Others

SooperKanoon Citation : sooperkanoon.com/1190564

Court : Chennai Madurai

Decided On : Jun-13-2016

Judge : The Honourable Dr.(Mrs.) Justice S. Vimala

Appeal No. : Crl.O.P.(MD).No. 8873 of 2016

Appellant : S. Sudalaikumar

Respondent : The Superintendent of Police Tirunelveli District, Palayamkottai and Others

Judgement :

(Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the 1st and 2nd respondents to instruct the 3rd respondent to alter the FIR by including the named accused 1.Palraj Nadar, S/o.Jebamani, 2.Padmasingh Selva Meeran S/o.Dharmaraj of Parappadi Village, 3.Dhanasekaran, S/o.Pichamuthu, 4.Kovil Nadar, S/o.Salamon of Thisaiyanvilai, 5.Mary Jeyarani, W/o.Padmasingh Selva Meeran, 6.Vadivu W/o.Arunachalam, 7.Kalyanasundaram, S/o.Swaminathan of Parappadi Village in Vijayanarayanam Police Station, Crime No.73/2016 under Sections 302 of IPC on the basis of the petitioner's complaint dated 20.05.2016 and investigate the same and file a final report within a period specified by this Court.)

1. It is a petition seeking direction to the 1st and 2nd respondents to instruct the 3rd respondent to alter the FIR by including the named accused 1.Palraj Nadar, S/o.Jebamani, 2.Padmasingh Selva Meeran S/o.Dharmaraj of Parappadi Village, 3.Dhanasekaran, S/o.Pichamuthu, 4.Kovil Nadar, S/o.Salamon of Thisaiyanvilai, 5.Mary Jeyarani, W/o.Padmasingh Selva Meeran, 6.Vadivu W/o.Arunachalam, 7.Kalyanasundaram, S/o.Swaminathan of Parappadi Village in Vijayanarayanam Police Station, Crime No.73/2016 under Sections 302 of IPC on the basis of the petitioner's complaint dated 20.05.2016 and investigate the same and file a final report.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side).

3. A case has been registered in Crime No.73/2016 on 30.04.2016 under Section 302 IPC without any named accused.

4. The learned Government Advocate (Crl. Side) would submit that great efforts are taken by the respondent in tracing out the accused and investigation is on proper lines and except obtaining the Forensic Report, all steps have been completed.

5. A representation has been given on 14.03.2008 to the Superintendent of Police, Tirunelveli asking for the similar relief. The learned counsel for the petitioner insisting upon the relief asked in the petitioner.

6. A perusal of the FIR would reveal that the very same petitioner is the informant and only based on his information, a case has been registered in Crime No.73/2016 under Section 302 IPC. The sum and substance of the allegation is that the brother of the petitioner was murdered by some unidentified persons and the injuries would speak about the fact that he might have been murdered. However, no persons have been named in the FIR as accused.

7. It is not known how the petitioner / informant herein came to know about the details of the proposed accused persons. Neither the source of information nor the materials showing involvement the proposed accused persons have been

furnished by the petitioner. If at all the petitioner has got credible information or reasonable suspicion that these persons might have been involved in the occurrence, this information has to be supplied to the Investigating Police Officers and it is for them to investigate and find out whether these persons are really involved in the occurrence. Without information, without material and without basis, the petitioner cannot seek for a direction for the Police to include them as accused in the First Information Report. There is no provision by which an FIR can be amended. The relief sought for by the petitioner cannot be granted in the way in which it is asked for.

8. Based on this information, it is for the respondents to investigate and find out whether the proposed persons are accused persons involved in the occurrence. If the respondents after investigation is able to collect material, showing the involvement of the proposed accused, it is open to them to take action in accordance with the provisions of Criminal Procedure Code.

9. It is appropriate to point out that the provisions of Section 319 Cr.P.C. Under which during course of enquiry or trial, if it appears from the evidence that any person not being the accused has committed any offence, the Court may proceed against such person for the offence which he appears to have committed.

10. Under such circumstances, the prayer sought for is not legally maintainable and with the above observation, this petition is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com