

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.07.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.15037 of 2015

M.Parimala

.. Petitioner

Vs

The State of Tamil Nadu
Rep. By The Inspector of Police,
D.6, Maraimalai Nagar Police Station,
Kancheepuram District.
(Crime No.502/2012) ... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying for direction to the respondent police to conduct further investigation in Crime No.502 of 2012 dated 13.07.2012 on the file of the respondent police.

For Petitioner : Mr.S.Prabhu

For Respondent : Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to direct the respondent police to conduct further investigation in Crime No.502 of 2012 dated 13.07.2012 on the file of the respondent police.

2. On the complaint lodged by one Manikandan, the respondent police registered a case in Crime No.502 of 2012 on 13.07.2012 under Sections 279 and 337 IPC against the rider of Hero Honda Motorcycle bearing Registration No.TN 21 R 3811, who died in the incident. The FIR has been registered based on the eyewitness of one Manikandan, who in this complaint has stated that around 1.30 in the morning on 13.07.2012, a Motorcycle bearing the aforesaid reregistration number had hit behind a lorry that was parked on the roadside, resulting in the rider of the Motorcycle sustaining serious injuries and dying. The name of the rider of the Motorcycle was later ascertained as one Madhavan. The petitioner, as the widow of Madhavan, who has approached this Court for further investigation on the ground that the case should be registered against the driver of the parked lorry for his negligence of having parked the vehicle without putting on the blinker lights.

3. This Court is unable to countenance this submission because the degree negligence for fastening criminal liability on a person is definitely higher than the one required for making a person liable either in tort or under the law relating to Motor Vehicles Act.

4. The learned counsel relied upon a judgment of this Court in United India Insurance Company Ltd., Ranipettai Vs. Sundaram & Others for the proposition that the lorry, which was parked on the road side, is also equally liable for not having maintained the safety standards stipulated under the Motor Vehicles Act and Rules. The aforesaid judgment arises from Motor Vehicles accident compensation case and does not arise under the criminal law.

5. As stated above, mens rea which is an essential part of criminal prosecution appears to be completely absent in this case. The lorry was parked on the road side as one of its wheel had developed puncture and the driver was attending to it. In the facts of this case, it is not possible to hold the driver of the lorry criminally responsible for any act of omission so as to make him an accused in the prosecution as that would amount to travesty a justice. Under such circumstances, it is not a fit case for further investigation of this case and accordingly, this petition is dismissed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Inspector of Police,
D.6, Maraimalai Nagar Police Station,
Kancheepuram District.

2.The Public Prosecutor,
High Court, Madras.

1 cc to M/s.S. Prabu, Advocate, sr. 36805

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RSK (CO)
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