



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

CRL.RC.(MD)No.88 of 2015

and

M.P.No.1 of 2015

N.Subburaj

: Petitioner/PW3

Vs.

The Inspector of Police,
Thevaram Police Station,
Uthamapalaym Taluk,

Theni District, Crime No.39 of 2012.

: Respondent/Complainant

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the order in Cr.MP.No.914 of 2013 in C.C.No.183 of 2012, on the file of the District Munsif cum Judicial Magistrate Court, Bodinayakkanoor, Theni District, in Crime No.39 of 2012, on the file of the respondent police and setaside the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.P.Kannithevan

Government Advocate [Criminal Side]

O R D E R

The petitioner has come up with this Criminal Revision Case challenging the order dated 03.12.2014 made in Cr.MP.No.914 of 2013, passed by the learned District Munsif cum Judicial Magistrate Court, Bodinayakkanoor, Theni District.

2. The facts of the case would be as follows:-

The respondent registered a case in Crime No.39 of 2012 under Sections 279, 337 and 304(A) of the Indian Penal Code, in respect of a motor vehicle accident, which happened on 11.03.2012 at 06.00 PM near Uthamapalayam. According to the First Information Report, the vehicle involved in the said accident bearing Registration No.TN60-W-8359 was driven by one Mrs.Chellammal, who is the wife of the petitioner herein. On completing the investigation, the respondent has laid final report against Mrs.Chellammal and the learned Judicial Magistrate has taken cognizance of the same. Before the Lower Court, the petitioner filed Crl.MP.No.914 of 2013 seeking a direction for further investigation on the ground that the vehicle was driven by him and not by his wife. The said petition was dismissed by the Lower Court. Challenging the said order, the petitioner is now before this Court with this Criminal Revision Case.

3. I have heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondent and perused the records carefully.



4. Admittedly, in this case, cognizance has been taken of the offences on the police report in which Mrs.Chellammal has been shown as the accused. She is facing the prosecution. I do not understand as to how the Trial Court could dispose of the petition, without affording opportunity to the accused, who is facing the prosecution. When this was pointed out, the learned counsel appearing for the petitioner submitted that it was by mistake and oversight that the accused was not arrayed as a party before the Lower Court as well as before this Court.

5. In my considered opinion, it would be appropriate for the Court to hear the petitioner as well as the accused and the Investigating Officer and then to pass appropriate orders.

6. In view of the above, I am inclined to set aside the impugned order and remand the matter back to the Lower Court for fresh consideration. In the result, the Criminal Revision Case is allowed and impugned order dated 03.12.2014 made in Cr.MP.No.914 of 2013, passed by the learned District Munsif cum Judicial Magistrate Court, Bodinayakkanoor, Theni District is set aside and the matter is remanded back to the Lower Court. The learned Magistrate shall implead the accused as a party to the proceedings, afford opportunity to the petitioner, the accused and the Investigating Officer and then to pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1.The District Munsif cum Judicial Magistrate,
Bodinayakkanoor, Theni District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

3.The Inspector of Police,
Thevaram Police Station,
Uthamapalaym Taluk, Theni District.

Nb

SR/PRV : 15.06.2015 : 2p/4c

ORDER MADE IN
CRL.RC.(MD)No.88 of 2015
DATED - 03.06.2015