

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

CrI.O.P.No.28278 of 2015

M.Chan Basha

... Petitioner

Vs.,

1.The Superintendent of Police,
Office of the Superintendent of Police,
Erode District.

2.The Deputy Superintendent of Police,
Gopichettipalayam,
Erode District.

3.State by:
The Inspector of Police,
Kavindapady Police Station,
Erode District.

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the 2nd respondent herein to register a case on the basis of the petitioner's complaint dated 14.10.2015, 16.10.2015 & 07.11.2015 and proceed with investigation in accordance with law.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.C.Emalias, APP

ORDER

This petition has been filed by the petitioner praying to direct the 2nd respondent-Police to register a case on the basis of the petitioner's complaints dated 14.10.2015, 16.10.2015 & 07.11.2015 and proceed with investigation in accordance with law.

2.In the affidavit filed in support of this petition, it has been stated by the petitioner that on 14.10.2015 at about 9.10 am, he drove the Honda Activa two wheeler bearing Reg.No.TN 33

AE 3253 from Perunthalaiur to Vijayan theatre bus stop. While he was reaching the said bus stop, a person riding TVS Appachi Motor Cycle bearing Reg.No.TN 33 S 9353 in a rash and negligent manner, hit against the petitioner on the left side, as a result of which, the petitioner sustained grievous injuries all over his body. He was taken to Kavindapady Government Hospital through 108 Ambulance with the help of passengers, who were standing in the bus stop. After giving first aid to the petitioner in the said Hospital, he was referred to Erode Government Hospital for further treatment; however, the petitioner got admitted in Dhashin Private Hospital as inpatient. The intimation regarding the accident had been given to the 3rd respondent/Inspector of Police, through Government Hospital, Kavindapady as well as through the Dhashin Hospital. But, the 3rd respondent-Police has not enquired the petitioner on the basis of the said intimation. It is further stated by the petitioner that immediately after the accident, an eye witness namely one Ameer has lodged a complaint before the 3rd respondent on 14.10.2015 itself. But, the 3rd respondent-Police neither enquired the said Ameer nor the person, who had seen the occurrence and called the 108 ambulance. The 3rd respondent is acting in favour of the person who is solely responsible for the accident. Hence, the petitioner sent a complaint dated 16.10.2015 to the respondents 1 & 2 to take appropriate action on the basis of the complaint dated 14.10.2015 and in the said complaint, the petitioner has stated that the accused person and his associates came to the Kavindapady GH when the petitioner was taking treatment and tried to kidnap the petitioner, but, the said attempt was defeated by the petitioner and his well-wishers. On the basis of the petitioner's complaint to the respondents 1 & 2, the Investigating Officer namely Mr.Rajendran, Special Sub-Inspector, who was investigating the matter, has been changed and investigation has been handed over to the 3rd respondent herein and thereafter, the petitioner was called for enquiry through summon dated 6.11.2015. On receipt of the summon from the 3rd respondent, the petitioner has made a detailed complaint dated 07.11.2015, in which the petitioner narrated the entire event. Thereafter, the 3rd respondent has sent another summon on 16.11.2015 and asked the petitioner to furnish certain particulars, for which the petitioner has sent detailed explanation dated 18.11.2015 to the 3rd respondent. But, the 3rd respondent has not registered the case on the basis of the petitioner's complaint, even though he furnished all the particulars to the 3rd respondent. The respondent has not taken any action on the basis of the petitioner's complaint. Hence, the petitioner has come forward with the present petition before this Court.

3.The 3rd respondent has filed a detailed counter stating that on 14.10.2015, based on the intimation report from Govt. Hospital, Kavindapady, the Special Sub-Inspector of Police went to the said hospital and came to know that the petitioner was treated as Out Patient and the other injured person viz., Parameswaran was referred to Govt. Hospital, Erode. Thereafter, one Ravishankar lodged a complaint before the 3rd respondent stating that on 14.10.2015 at about 9.10 am, the said Ravishankar was standing at Perunthalaiyur Bus Stop and at that time, the petitioner drove a Honda Activa bearing Reg.No.TN 33 AE 3253, in a rash and negligent manner and hit against a person viz., Parameswaran who drove his TVS Apache bearing Reg.No.TN 36 S 9353, as a result of which, the petitioner sustained injury on his hands and the said Parameswaran sustained head injury. Immediately, the Ravishankar and others took both the injured persons to Kavindapady Govt. Hospital, through 108 Ambulance, wherein the petitioner was treated as Out-Patient and the said Parameswaran was referred to Govt. Hospital, Erode due to head injury. Based on the complaint given by the said Ravishankar, a case in Crime No.387 of 2015 under Sections 279, 337 IPC was registered by Special Sub-Inspector of Police on 14.10.2015, as against the petitioner herein. After completion of detailed investigation, chargesheet has also been filed against the petitioner herein for the alleged offences under Sections 279, 338 IPC r/w Section 181, 39 R.w 193, 146 r/w 196 of Motor Vehicles Act before the learned Judicial Magistrate, Gobichettipalaym and the same was taken on file as S.T.C.No.2014/2015. Therefore, the question of considering the prayer sought for the petitioner herein in this petition does not arise at this stage. Thus, the respondents sought for dismissal of the present petition.

4.The learned counsel for the petitioner submitted that though the petitioner has given complaint as early as on 16.10.2015, his complaint was not registered. In the accident, the petitioner has also sustained injuries; therefore, his complaint also ought to have been registered by the respondents-Police. Thus, the learned counsel for the petitioner sought for a suitable direction to the respondents-police.

5.Heard the learned Additional Public Prosecutor also and perused the materials available on record.

6.Considering the facts and circumstances of the case, I am of the opinion that since already on completion of investigation, chargesheet has been filed against the petitioner, at this stage, this Court cannot give any direction

in the present petition as sought for by the petitioner. If the petitioner is aggrieved, he is at liberty to file a private complaint.

In the result, the criminal original petition is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To,

- 1.The Judicial Magistrate,
Gobichettipalayam.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Erode District.
- 3.The Deputy Superintendent of Police,
Gopichettipalayam,
Erode District.
- 4.The Inspector of Police,
Kavindapady Police Station,
Erode District.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Marudha Chalamurthy, Advocate, S.R.No.5991

Cr1.O.P.No.28278 of 2015

msm(CO)
srg(15/02/2016)

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