



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.10162 of 2017

and

Cr1.M.P.(MD) No.7534 of 2017

K.Gomathi

: Petitioner

-Vs-

1. The Superintendent of Police,
District Police Office,
Theni District.

2. The Inspector of Police,
Bodinayakkanur Rural Police Station,
Bodinayakkanur,
Theni District.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to direct the first respondent to transfer the investigation pertaining to the Crime No.392 of 2017 on the file of the second respondent to any other competent officer or investigation agency on the basis of the petitioner's complaint dated 15.07.2017.

For Petitioner : Mr.J.Selvin Rajesh

For Respondents : Mr.K.Anbarasan

Government Advocate (Crl. Side)

O R D E R

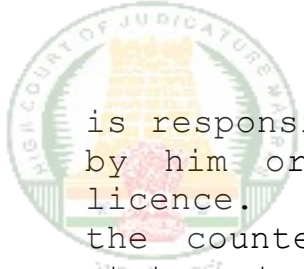
This petition is filed for issuing a direction to the first respondent to transfer the investigation pertaining to Crime No.392 of 2017 on the file of the second respondent to any other competent officer or investigation agency on the basis of the petitioner's complaint dated 15.07.2017.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the respondents.

3.The petitioner is the wife of one Krishnarajan, who succumbed to death due to the injury caused in a road accident that occurred on 16.06.2017. It is stated that the petitioner got the information from the second respondent police and based on

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5. When the matter is posted today, the second respondent filed a detailed counter affidavit stating that the petition filed by the petitioner is bereft of merits. It was stated that the vehicle namely the two wheeler bearing Registration No. TN-07-CC-3321 was driven by the accused one Prasath and that the owner of the vehicle by name Premkumar was only a pillion rider. Since the driver of the vehicle and the pillion rider drove the vehicle in drunken mood, it is stated that the accident was caused by the rash and negligent manner in which the driver of the two wheeler drove the vehicle. The contention of the petitioner in the affidavit that the information was wrongly given to the petitioner to register a false case was stoutly denied. Apart from the statement of facts found in the counter affidavit, the second respondent also produced before this Court the owner of the vehicle by name Premkumar who has given a statement before this Court that he did not drive the vehicle on the fateful day of accident and that the vehicle was driven by his friend who has been shown as the accused in the complaint. The owner of the vehicle who is present before this Court today has stated that he has purchased the vehicle just three days prior to the accident and that the accident occurred on the date mentioned in the complaint. This Court has nothing to doubt about the veracity of the statement given before this Court by the owner of the vehicle. It is to be noted that the person namely the owner of the vehicle is responsible for the accident as owner of the vehicle and to compensate the petitioner for the death of her husband. Since it is admitted that the driver of the vehicle has no driving licence, it is only the owner of the vehicle who



is responsible for the accident whether the accident was caused by him or by any other person authorised by him who has no licence. In that view of the matter, this Court, on the basis of the counter affidavit filed by the second respondent and the statement of facts from the owner of the vehicle, is of the view that this petition need not be ordered. It is further stated that the final report is also filed on 25.07.2017. In such circumstances, this Criminal Original Petition is dismissed. However, the statement of the owner of the vehicle namely Premkumar may be obtained by the second respondent so that he may not come forward with a different story during enquiry in connection with the motor accident claims case filed by the petitioner. Consequently, connected Crl.M.P.(MD)No.7534 of 2017 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
District Police Office,
Theni District.
2. The Inspector of Police,
Bodinayakkanur Rural Police Station,
Bodinayakkanur,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SRM

VB/KK/SAR2/07/09/2017/3P/4C

**CRL.O.P. (MD)No.10162 of 2017
29.08.2017**