



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.11925 of 2017
and
CRL.MP.(MD)No.8199 of 2017

Ravichandran

... Petitioner/Sole accused

Vs.

1. The Inspector of Police,
Usilampatti Town Police Station,
Madurai District.
(Crime No.425 of 2017

... 1st Respondent/
Complainant

2. Kokilavani

... 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the above First Information Report in Crime No.425 of 2017 on the file of the first respondent police and to quash the same as illegal.

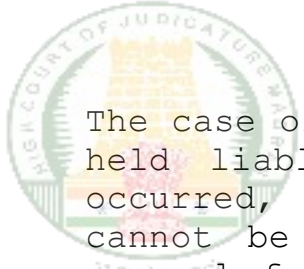
For Petitioner	: Mr.A.Joseph Jerry
For R-1	: Mr.K.Anbarasan, Government Advocate(Crl.Side).

O R D E R

This Criminal Original Petition is filed for quashing the First Information Report in Crime No.425 of 2017 on the file of the first respondent police.

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

3. It is stated that the petitioner was the driver of the bus which caused an accident by which the conductor cum driver who was also travelling in the same bus fell down and sustained injuries.



The case of the petitioner is that the driver of the bus cannot be held liable for rash and negligent driving and the accident occurred, as the injuries sustained by the Conductor of the bus cannot be linked with rash and negligent driving. The learned counsel for the petitioner relied upon a Judgment of the Hon'ble Supreme Court in the case of **Mohammed Aynuddin V. State of A.P.**, reported in **(2000) 7 SCC 72**, wherein the Hon'ble Supreme court has held as follows:-

" 10. In the present case the possible explanation of the driver is that he was unaware of even the possibility of the accident which happened. It could be so. When he moved the vehicle forward his focus normally would have been towards what ahead of the vehicle. He is not expected to move the vehicle forward when passengers are in the process of boarding the vehicle. But when he gets a signal from the conductor that the bus can proceed he is expected to start moving the vehicle. Here no witness has said, including the conductor, that the driver moved the vehicle before getting a signal to move forward. The evidence in this case is too scanty to fasten him with criminal negligence. Some further evidence is indispensably needed to presume that the passenger fell down due to the negligence of the driver of the bus. Such further evidence is lacking in this case. Therefore, the Court is disabled from concluding that the victim fell down only because of the negligent driving of the bus. The corollary thereof is that the conviction of the appellant of the offence is unsustainable."

4. From the reading of the said Judgment, it is clear that the Hon'ble Supreme Court based on evidence expressed its opinion that the trial Court as well as the High Court committed a serious error by convicting the person based on the evidence which is too scanty to fasten the driver with criminal negligence. When the said Judgment of the Hon'ble Supreme Court is based on the evidence, this Court cannot take this as a precedent to quash the First Information Report.

5. It is open to the petitioner to establish that he is not liable to be prosecuted for criminal negligence, based on evidence. The same cannot be a ground for quashing the First Information Report where the complaint discloses a cognizable offence stating that the death of the conductor was purely due to



rash and negligent driving of the bus which was driven by the petitioner and hence, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Usilampatti Town Police Station,
Madurai District.

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

+ 1 CC TO MR.A.Joseph Jerry, ADVOCATE IN SR No.78099

pmu

MK/KK/SAR-2/09.10.2017/3P/4C

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