



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

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THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No. 15682 of 2017
and
Crl.M.P.(MD) No.10416 of 2017

Vimal Kumar

...Petitioner

-Vs-

1. The State Represented by
The Inspector of Police,
Vallam Police Station,
Thanjavur District.
(Crime No.221 of 2017)

2.Durairajan

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in Cr.No.221 of 2017 on the file of the first respondent police and quash the same to the petitioner alone.

For Petitioner : Mr.B.Jameel Arasu

For R1 : Mr.A.Ramar
Additional Public Prosecutor

ORDER

This Criminal Original petition has been filed to call for the records pertaining to the case in Cr.No.221 of 2017 on the file of the first respondent and to quash the same.

2.The petitioner states that he is the husband of the owner of TATA Ace Vehicle bearing Reg.No.TN 48 AF 9482. From the complaint, it is seen that in the accident occurred on 14.07.2017, a transport bus had dashed against the said TATA Ace vehicle belonging to the petitioner's wife. Since the TATA Ace vehicle was carrying Iron rods and due to the projection of iron rods and angles beyond the vehicle, it is reported that several persons died in the accident and some of them were injured.

3.The case was originally registered under Sections 279, 337



and 304(A) of IPC as against the driver, and subsequently, as per the alteration report, the petitioner was also implicated as the husband of the owner of the vehicle, which was involved in the accident. The alteration report was done on the basis of further enquiry.

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4.The contention of the petitioner is that as per the original FIR, the accident was caused by the said transport bus and that the petitioner or the vehicle belong to his wife are not responsible for the accident. The learned Counsel for the petitioner further pointed out that the petitioner is not at all liable as there was no allegation as against the petitioner regarding the cause of accident.

5.The learned counsel for the petitioner submitted that since the petitioner is neither the driver nor owner, the First Information Report and the alteration report involving the petitioner are not sustainable. This Court considered the submission of the learned counsel for the petitioner. It is not in dispute that the accident caused the death of 10 persons and injury to 21 persons. The case was registered for the offences punishable under Section 304(A). The fact that the injured were hit by the Iron rods and angles, which were loaded in the vehicle, namely, TATA Ace, which belongs to the petitioner's wife is not in dispute. Since allegation is wilful negligence, several factors are relevant, in this case, it is pre mature to decide or to rule out the involvement of the petitioner in the cause of accident. From the alteration report, it can be seen that the allegation against the petitioner is that he voluntarily transported the Iron rods and angles despite the warning note given by the owner of the goods. Whether the allegation is true or not, it is a matter for evidence and therefore, contentious issues involving disputed question of fact cannot be considered at this stage.

6.Hence, this Criminal Original Petition is dismissed as devoid of merits. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
Police Station,
Thanjavur District.



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

+1cc TO Mr.B.Jameel Arasu , Advocate in SR No. 88011

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AE/JC/SAR2/11.01.2018/3P/4C

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and
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