



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH**Crl.O.P.(MD) No.1598 of 2017**

WEB COPY

David Raja

... Petitioner

-vs-

1. The Superintendent of Police,
Thoothukudi District,
Thoothkudi.

2. The Inspector of Police,
South Police Station,
Thoothukudi.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the first respondent herein to direct the 2nd respondent to alter the offences in the above case in F.I.R.No.1138 of 2015 and pass such other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.V.Malaiyendran
For Respondents : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed to direct the first respondent herein to direct the 2nd respondent to alter the offences in the above case in F.I.R.No.1138 of 2015.

2. The case was closed as undetected in respect of a motor vehicle accident that took place on 31.12.2015. The respondent police registered a case in Crime No.1138 of 2015 under Section 279 and 337 IPC, on the complaint lodged by the petitioner herein. In the complaint given by the petitioner, he had stated that while he was going with his wife and son in his TVS Star City motorcycle bearing Reg.No.TN-69 R 0913, another motor cycle bearing Regn.No.TN 69 AE 3737 Bajaj Pulsar bike had dashed, resulting in serious injuries to the petitioner's wife. The petitioner's wife suffered head injuries and later, she died on 02.01.2016. Under such circumstances, the petitioner has filed the present petition for a direction to the respondent police to alter the offence in the FIR into one under Section 304-A IPC.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State. Mr.C.Vairavan, Special Sub-Inspector of Police, South Police



Station, Tuticorin District is present before this Court.

4. On instructions, learned Government Advocate (Crl.Side) submitted that after the death of the petitioner's wife, the Police have filed an application before the learned Judicial Magistrate No.I, Tuticorin for altering the FIR in Crime No.1138 of 2015 into one under Section 304-A IPC. Therefore, the prayer of the petitioner has been satisfied by the Police.

5. However, it is the contention of the learned counsel for the petitioner that the Police have not apprehended the driver of the offending vehicle. The Inspector of Police, South Police Station, Thoothukudi, who is the Investigating Officer in Crime No.1138 of 2015 has filed a status report, wherein in Paragraph No.2(d), it has been stated as follows:

"4(d) During the course of investigation it is found that the Petitioner has wrongly mentioned the identification of the vehicle caused the accident as the Two Wheeler by Model Bajaj Pulsar bearing Registration No.TN 69 AE 3737. In fact, the two wheeler bearing the said registration number is Bajaj Discover by model and the owner of the said Bajaj Discover is one Mr.Pradeep Kumar a resident of Bharathi Nagar, Thoothukudi. During the course of investigation no evidence is found to prove the involvement of the said Pradeep Kumar and his vehicle Bajaj discover in the occurrence. Therefore, a separate police team was formed to find out the real accused and the vehicle involved in the occurrence. However, even after making sincere attempts no positive progress could be made in the said case in Crime No.1138 of 2015. Therefore, stating all the above said case in Crime No.1138 of 2015 as "Accused Non Traceable".

6. Recording the same, this petition is closed with further direction to the respondent police that they can still proceed with the enquiry in the case, though "Accused Non Traceable" report has been filed before the learned Magistrate in order to bring the guilty to justice.

Sd/-

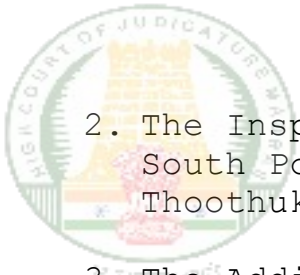
Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.



2. The Inspector of Police,
South Police Station,
Thoothukudi.

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

+1cc to M/s.V.MALAIYENDRAN Advocate in SR. N0.14170
AR/
JS/MR/27.03.2017/3P-5C

Crl.O.P. (MD) No.1598 of 2017
10.03.2017