



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

ORDERS RESERVED ON 23.03.2017

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.R.C.(MD)No.491 of 2016
and Crl.M.P.(MD)No.5825 of 2016

J.Pethuraj

... Petitioner

Vs.

The Inspector of Police,
Palanichettipatti Police Satation,
Theni District.

... Respondent

PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to call for records relating to the order dated 11.04.2016 passed in Crl.M.P.No.1429 of 2016 by the learned Judicial Magistrate, Theni and to set aside the same.

For Petitioner : Mr.S.Saravana Kumar

For Respondent : Mr.P.Kandasamy, G.A.(Crl.side)

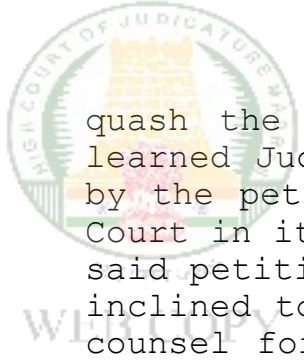
ORDER

This Criminal Revision Case is filed to set aside the order dated 11.04.2016 passed in Crl.M.P.No.1429 of 2016 by the learned Judicial Magistrate, Theni.

2.The petitioner herein is the sole accused in Crime No.771 of 2015 registered by the respondent Police under Section 279 and 304(A) IPC and charge sheet was also laid before the Judicial Magistrate, Theni and the same is pending in C.C.No.356 of 2015.

3.The case of the prosecution is that on 04.09.2015, while the petitioner was driving the Government bus in a rash and negligent manner, has dashed against the bike, which was driven by one Kumar and Eswaran as pillion rider at Theni to Bodi road near Balan Bakery and due to which, they sustained grievous injuries and died on the spot itself.

4.Admittedly, the petitioner filed a petition in Crl.O.P.(MD) No.23789 of 2015 under Section 482 Cr.P.C. before this Court to



quash the case in C.C.No.356 of 2015 pending on the file of the learned Judicial Magistrate, Theni by relying CCTV footage produced by the petitioner and the said petition was also dismissed by this Court in its order dated 15.12.2015. At the time of disposal of the said petition, this Court made an observation that this Court is not inclined to express any view on the submissions made by the learned counsel for the petitioner, praying for a direction to the learned Judicial Magistrate, Theni to order further investigation under Section 173(8) Cr.P.C. and has held that depending upon the progress of the case, the Judicial Magistrate may decide the course to be adopted on the basis of the evidence, which is going to be produced during trial and this finding is not a bar for Judicial Magistrate for ordering further investigation, if the Judicial Magistrate comes to the conclusion that further investigation is necessary.

5. Based upon the above observation of this Court, the petitioner / accused filed a petition in CrI.M.P.No.1429 of 2016 before the learned Judicial Magistrate, seeking to reinvestigate the case in C.C.No.356 of 2016 and the same was dismissed by order dated 11.04.2016. Aggrieved by that order of dismissal, the petitioner / accused filed the present criminal revision case to set aside the order dated 11.04.2016.

6. The learned counsel for the revision petitioner would submit that the settled legal principle is that even if the relief sought for by the petitioner is not under the jurisdiction of the concerned Court, the said Court ought to have granted further investigation by considering the facts and circumstances of the case, but the Trial Court dismissed the petition only on technical ground.

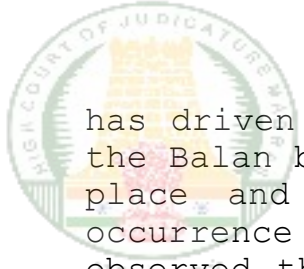
7. The learned Government Advocate (CrI.side) appearing for the respondent would submit based on the counter statement filed by the respondent herein that after receiving representation by relying upon CCTV camera, which was placed at the occurrence place, further witnesses were enquired and their statements were recorded and after proper investigation, the final report was filed and the petitioner has every right to defend his case by producing the CCTV footage if any at the time of trial and the relief of reinvestigation is not maintainable as per the judgment of the Hon'ble Apex Court and hence, this Criminal Revision case is liable to be dismissed.

8. This matter is taken up for final hearing at the admission stage itself with the consent of either side.

9. Perused the materials on record. Heard and considered the rival submissions made on either side.

10. It is admitted by the revision petitioner that the learned Judicial Magistrate is not having power to order for reinvestigation. The contention of the petitioner is that while the petitioner was driving his bus with care and caution, the deceased

<https://hcservices.ecourts.gov.in/hcservices/>



has driven his two wheeler in a rash and negligent manner, crossing the Balan bakery on the wrong side and hence, the said accident took place and the same was recorded in CCTV camera fixed at the occurrence place. The Trial Court, on perusal of the case records, observed that the recordings in CCTV camera, fixed at the place of occurrence would show the manner of accident occurred, and the same can be proved only at the time of trial. Nothing is found wrong in the said decision taken by the Trail Court. This Court has also not passed any order for further investigation or reinvestigation and has left the decision to the Trial Court to decide the issue only on the basis of the evidence to be adduced during trial. The petitioner has every right to defend his case by producing the alleged CCTV footage during the course of trial. This Court has also found no flaw in the impugned order passed by the court below.

11.Considering the above facts and circumstances of the case, this Court is not inclined to interfere in the impugned order dated 11.04.2016 in Crl.M.P.No.1429 of 2016 passed by the learned Judicial Magistrate, Theni.

12.In the result, the Criminal Revision Case stands dismissed. Consequently, connected Crl.M.P.is closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Theni.
2. The Inspector of Police,
Palanichettipatti Police Satation,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.SURIYANARAYANAN, ADVOCATE IN SR No. 87745

NBJ
TE/JC/SAR-1 : 21/12/2017 : 3P/5C

order made in
Crl.R.C. (MD) No.491 of 2016
and Crl.M.P. (MD) No.5825 of 2016
17.11.2017