



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.07.2017

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THE HON'BLE MR.JUSTICE **V.BHARATHIDASAN**

CrI.R.C(MD).No.327 of 2013

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...Petitioner /Petitioner

-Vs-

State Represented by
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
(Cr.No.61/2009)

... 1st Respondent/Respondent

Prayer : Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure against the order of the learned Judicial Magistrate No.I, Nagercoil in Cr.M.P.No.1219 of 2012 dated 27.04.2012 and set aside the same.

For Petitioner	: Mr.C.Joseph Sathianeson
For Respondent	: Mr.C.Mayilvahana Rajendran Addl. Public Prosecutor

O R D E R

Challenging the order dismissing the petition for further investigation, filed by the petitioner, the present criminal revision case has been filed.

2.According to the petitioner, the petitioner's husband one Ganesan is an auto driver. On 06.02.2009 at about 9.00 p.m, while he was driving the auto, a Tamil Nadu State Transport Corporation bus bearing Regn.No.TN-74-N-0626, driven by one David Selva Shamji in rash and negligent manner, dashed against the petitioner's husband and caused injuries. In this regard, a complaint was given and the same was registered in Cr.No.61/2009 under Sections 279 and 337 of I.P.C. After investigation, the respondent Police filed a negative final report. Thereafter, the petitioner filed a petition for ordering further investigation and that petition was dismissed by the learned Magistrate. Challenging the same, the present revision has been filed.

3.I have heard Mr.C.Joseph Sathianeson, the learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.

4.The learned counsel appearing for the petitioner submitted that the respondent Police, without conducting proper enquiry and without examining the eye witnesses namely one Ramesh and Rathnakumar, created statements and based on the same, they



filed a final report. The court below, without considering the said fact, dismissed the petition for further investigation.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the above said Ramesh and Rathnakumar have been examined by the police and they have stated that they have not seen the occurrence. The other eye witnesses also stated that they have not seen the occurrence and there is no evidence available on record. Therefore, the respondent Police filed a negative final report. Hence, there is no infirmity in the order.

6. I have considered the rival submissions.

7. The main contention of the petitioner is the respondent Police, without obtaining any statement from the eye witnesses, created some statement and based on the said statement, they have filed the negative final report and closed the complaint. But, on perusal of the records, it is seen that statements from the eye witnesses have been recorded by the respondent Police and based on the same, the Police have come to a conclusion that no offence is made out. Hence, they closed the final report.

8. In the above circumstances, I find no irregularity or illegality in the order passed by the court below. The contention of the petitioner that the respondent police did not get any statement from the petitioner and other eye witnesses is not correct. Hence, this Criminal Revision Case is dismissed. However, it is always open to the petitioner to file any private complaint, if she is so advised.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
 2. The Judicial Magistrate No. I, Nagercoil
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to M/S.P.T. RAMESH RAJA, Advocate SR.No. 63891

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06.07.2017