

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2018

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
Crl.O.P.No.17594 of 2018

Sharmila Begum

...Petitioner

Vs

The Sub-Inspector of Police
GNT Road, Traffic Investigation Wing
Madhavaram, Chennai 600 060.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondent to trace out the offending unknown Trailer lorry and to initiate suitable action against the offender driver as stated in the complaint in Cr.No.138 of 2018 dated 05.03.2018 on the file of the SI of Police, Traffic Investigation Wing, Madhavaram, Chennai-60.

For Petitioner : Ms.M.Malar

For Respondent : Mr.C.Raghavan

Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the respondent to trace out the offending unknown Trailer lorry and to initiate suitable action against the offender driver as stated in the complaint in Cr.No.138 of 2018 dated 05.03.2018 on the file of the SI of Police, Traffic Investigation Wing, Madhavaram, Chennai-60.

2. Consequent to a road accident that occurred on 04.03.2018, on the complaint lodged by Mohan, the respondent police have registered a case in Cr.No.138 of 2018 on 05.03.2018 under Sections 279, 338 IPC and Section 134(a) and 134(b) of the Motor Vehicles Act, against the driver of an unknown offending vehicle. After registration of the FIR, one of the injured by name Abbas, succumbed to the injuries and therefore, the case has been altered to one under Section 304-A IPC. Under such circumstances, the petitioner, who is the mother of the deceased Abbas, is before this Court with the above prayer.

3. On the directions of this Court, Ms.R.Banumathi, Inspector of Police, GNT Road, Traffic Investigation Wing, Madhavaram, is present.

4. The Investigating Officer has filed a status report dated 31.10.2018, wherein, she has stated as follows:

"3. I humbly submit that the Investigating Officer had examined the Complainant, the Mr.Karthick (Eye Witness), Athityan (Eye Witness), Dr.Savitha (Chief Medical Officer) and Dr.Pradeep (Medical Officer) as witnesses on 05.03.2018. The Investigating Officer had also drawn up an Observation Mahazar with independent witness on the same day. I humbly submit that a Post-Mortem Report was prepared by one Dr.Ramachandran (Tutor in Forensic Medicine) and same was taken on file on 05.03.2018 wherein it was stated that the death was caused by multiple injuries. Further on 06.03.2018, the Investigating Officer, had examined the person in Charge at All Cargo CFS located at the sight of accident and taken copies of the CCTV footage during the date and time of the accident, however, there was no coverage of the accident. The Special Team headed by the Special Sub-Inspector, had visited and examined the person in charge of ITC Limited, and other places in order to trace the lorry. Subsequently, on 12.03.18, 20.03.18, 28.03.18, 06.04.18 and 11.04.2018, 20.04.2018, 28.04.2018, the investigating Officers and Special Team had visited various offices and other premises near the sight of the accident in order to trace and capture the Tractor Lorry and the same was recorded in the case diary. However, none of the CCTV footages have any coverage of the accident and the Tractor Lorry could not be traced. Further, on 05.05.2018, a Sub-Inspector was assigned to attempt to trace the vehicle, however, the same did not fructify and the Sub-Inspector reported the same on 05.05.2018.

4. I humbly submit, that on 12.05.2018, the Investigating Officer received a letter from CISF at the Main Entrance Gate of the Ennore Port detailing the entrance and exit of all the vehicles at the time of accident. With the list of vehicles, the Investigating Officer requested details of suspected vehicles which might have been involved in the accident from RTO. The total number of vehicles suspected by the Investigating Officer amounted to 16. The Investigating Officer received the detailed and called upon the owners of the vehicle to explain the involvement of their vehicles. However, the same did not conclude in any traceable

intelligence."

5. Learned counsel for the petitioner contended that the investigation conducted by the police has been perfunctory and therefore, this Court should give a finding that the police have not taken reasonable efforts for apprehending the offending vehicle. Learned counsel further submitted that if this Court gives such a finding, then the case of the petitioner will be out of the net of Section 161 of the Motor Vehicles Act and the petitioner will be able to claim compensation beyond Rs.25,000/- from the State, for the failure of the police to take reasonable efforts for identifying the offending vehicle.

6. Learned counsel placed strong reliance on the judgment of a learned single Judge of this Court in C.M.A.Nos.1831 and 1832 of 2016 dated 19.09.2018. However, the learned counsel was fair enough to bring it to the notice of this Court that, in paragraph 29 of the said order, the learned Judge has held that the said case cannot be construed as a precedent.

7. In the opinion of this Court, no such finding as prayed for by the petitioner can be granted and even if this Court finds that the investigation in a criminal case has been perfunctory, this Court can only change the investigating agency.

8. On a reading of the status report, this Court does not find any infirmity in the investigation and that the Investigating Officer is doing her best to identify the offending vehicle.

9. Recording the same, this petition is closed with a direction to the Investigating Officer to proceed further with the investigation in Cr.No.138 of 2018 and keep the petitioner informed about the developments of the case. The Assistant Commissioner of Police, Madhavaram Range is directed to monitor the investigation in GNT Road, Traffic Investigation Wing Cr.No.138 of 2018 that is being conducted by the Inspector of Police and complete the same expeditiously.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Sub-Inspector of Police
GNT Road, Traffic Investigation Wing
Madhavaram, Chennai 600 060.

2.The Public Prosecutor
High Court, Madras.

+lcc to M/s.M.Malar, Advocate,S.R.No.75122

Cr1.O.P.No.17594 of 2018

rrs 01/11/2018



WEB COPY