

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.02.2018

Pronounced on : 14.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.1393 of 2018

T.Surender ... Petitioner

Vs.

1.State rep. by
The Sub-Inspector of Police,
S-13, Tiw-Chromepet Police Station,
Tambaram,
Chennai-600 045.

2.Sathya Mullar ... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in FIR No.825 of 2017 dated 25.12.2017 on the file of S-13, TIW-Chromepet Police Station, Chennai-600 045 may be modified, deleting the matter of accused being drunkenness (since the matter is only false and not true).

For Petitioner : Mr.S.Ezhil Raj

For Respondent-1 : Mrs.P.Kritika Kamal,
Govt. Advocate (Crl. Side)

For Respondent-2 : No Appearance

O R D E R

The petitioner has been charged for the offences under Sections 279, 337 and 308 IPC.

2.Heard Mr.S.Ezhil Raj, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing on behalf of the first respondent.

3.The case of the prosecution as reflected in the FIR is that when the complainant had parked the car on 25.02.2017 at 4.30 a.m. before the church at Velachery Main Road, Chembakkam and was walking towards the church, the petitioner's innova car had dashed another Volkswagon car which was trying to get parked next to the complainant's car resulting in damages to the complainant's car as well as to the Volkswagon's car and also caused injuries to the inmate of the Volkswagon's car. In the FIR, the complainant has alleged that the petitioner was under the influence of alcohol while driving. In view of the same, an FIR came to be registered on 25.12.2017 for offences under Sections 279, 337 and 308 IPC.

4.The grievance of the petitioner is that he was not under the influence of alcohol at all at the time of the alleged accident and in view of this false allegation, the petitioner is unable to claim insurance for his vehicle. Therefore, the petitioner herein has filed the present criminal original petition seeking for a direction to delete the false allegations in the FIR that he was under the influence of alcohol.

5.The learned Government Advocate on instructions submitted that the issue as to whether the petitioner was under the influence of alcohol or not, is a subject matter of investigation and therefore, it is pre-mature to seek for such a direction.

6.What has been referred to in the FIR is the statement of the complainant which has been extracted and it is the version of the complainant that the petitioner was under the influence of alcohol at the time of accident. Just because the complainant had alleged that the petitioner was driving the car under the influence of alcohol need not necessarily implicate the petitioner of having caused the accident in a drunken state. As pointed out by the learned Government Advocate, the investigation is pending on the complaint and it is for the police authorities to come to a finding that he was under the influence of alcohol or not when the accident took place. The offence for which the petitioner has been implicated also does not implicate the petitioner of having consumed liquor and driving the vehicle. As such, a mere observation in the complaint will not disentitle the petitioner from claiming the insurance.

7.Though I have made the above observation that the petitioner will be entitled for claiming insurance on the accident, the prayer sought for in the present Criminal Original Petition cannot be granted for the simple reason that the remark in the FIR sought to be expunged is the version of the complainant and the subject matter of the investigation. While that being so, it would not be appropriate to accede to the prayer sought for in the present criminal original petition. Accordingly, the Criminal Original Petition stands closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub-Inspector of Police,
S-13, TIW-Chromepet Police Station,
Tambaram,
Chennai-600 045.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Ezhil Raj, Advocate, S.R.No.19340

+lcc to Mr.S.Ezhil Raj, Advocate, S.R.No.19340 (19/03/2018)

Cr1.O.P.No.1393 of 2018

RRK(16/03/2018)

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