

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 26.02.2018****CORAM:****THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Cr1.R.C. (MD) No.115 of 2018**

V.Tamilvanan

... Petitioner / Complainant

vs.

1.Balu @ Balakrishnan

2.Thangapandi

3.D.Kannan

... Respondents/ Accused

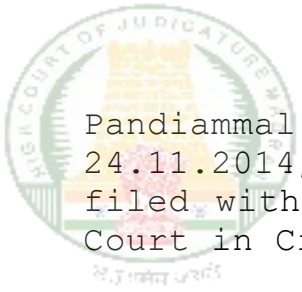
PRAYER: Criminal revision filed, under Section 397 and 401 Cr.P.C., to call for the records relating to the order made in Cr.M.P.No.4017 of 2014 dated 24.11.2014, passed by the Learned Judicial Magistrate No.II, Usilampatti and set aside the same and direct the said Court to take the complaint on file and issue summons to the respondent and to conduct enquiry in accordance with law.

For Petitioner : Mr.P.R.Prithiviraj

ORDER

On 24.10.2011, around 10.15 p.m., a motor accident took place, in which, one Pandiammal lost her life. In connection with the said accident, police registered a case in Crime No.344 of 2011 (according to the learned counsel for the petitioner, the crime number has been wrongly given in the order of the Judicial Magistrate No.2, Usilampattai and the actual crime number is 394 of 2011) against the petitioner herein and after completing the investigation the police have filed a charge sheet in C.C.No.504 of 2013 before the Judicial Magistrate No.2, Usilampatti under Section 304-A I.P.C. against the petitioner.

2.It is the case of the Police that the petitioner has rashly and negligently driven his Tractor bearing registration No.TN 58 P 1802, on account of which, a head on collision occurred with an Auto-Rickshaw bearing registration No.TN 58 V 4048, in which Pandiammal was travelling. While so, the petitioner has filed a private complaint in Cr.M.P.No.4017 of 2014, alleging that the accident had not taken place in the manner projected by the prosecution in C.C.No.504 of 2013, in as much as the Auto-Rickshaw came behind the Tractor and had dashed, resulting in the death of



Pandiarnal. The trial Court has dismissed the private complaint on 24.11.2014, challenging which the Criminal Revision Case has been filed with a delay of 1100 days, which has been condoned by this Court in Crl.M.P.(MD) No.1230 of 2018.

3.Learned counsel for the petitioner submitted that immediately on the date of accident, i.e., on 24.10.2011, the petitioner had given a complaint, alleging that the Auto-Rickshaw driver was drunken and only on account of that the accident had taken place. He would further submit that the police did not take any action on his complaint, on the other hand, had registered a case against the petitioner as if it was the petitioner, who had driven the tractor in a rash and negligent manner.

4.In the considered opinion of this Court, for the incident that is said to have been taken place on 24.10.2011, the private complaint has been filed only in the year 2014, after the police had completed the investigation and filed a charge sheet in C.C.No.504 of 2013 and hence, the petitioner is attempting to set up a defence for himself in the trial in C.C.No.504 of 2013. Under the said circumstances, this Court does not find any infirmity in the order passed by the trial Court warranting interference by this Court.

5.In the result, the Criminal Revision Case stands dismissed. Whatever observed above is only for deciding the present Criminal Revision Case and the trial Court shall proceed with the trial in C.C.No.504 of 2013 without being, in any manner, influenced by what is stated in this order.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To:

1.The Judicial Magistrate No.2,
Usilampatti.

Sj

AE/JC/SAR2/08.03.2018/2P/2C

Crl.R.C.(MD) No.115 of 2018
26.02.2018