



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) No.15415 of 2018

P.Muthu

... Petitioner/Defacto complainant

Vs.

1. The Superintendent of Police  
Office of the Superintendent of Police  
Virudhunagar District

2. The Sub Inspector of Police  
Kariyapatti Police Station  
Kariyapatti, Virudhunagar District

3. The Deputy Superintendent of Police  
CBCID  
Virudhunagar District

...Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to withdraw the case in Crime No.158 of 2018 pending on the file of the second respondent and entrust the same to third respondent for investigation of the case and file a final report before the Jurisdicional Magistrate within the time stipulated by this Honourable Court.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mrs.S.Bharathi  
Government Advocate (Crl.Side)

#### ORDER

This Criminal Original Petition has been filed for a direction to transfer the investigation in Crime No.158 of 2018 which is pending on the file of the second respondent.

2. The learned counsel for the petitioner would submit that the petitioner was riding his two wheeler near Nedungulam. On 06.05.2018 at about 7.45 p.m, the petitioner was hit by Tata Ace vehicle bearing Reg.No. TN 67 AC 6765 which came in the opposite direction and was driven in a rash and negligent manner. The petitioner fell down and became unconscious and he was admitted in the hospital. The petitioner recovered and statement was also taken from him by the Constable belonging to the second respondent police station on 17.05.2018, wherein the petitioner had specifically identified the vehicle and also the vehicle number. However, to the



shock of the petitioner, First Information Report was registered on 28.05.2018 stating that the vehicle belonging to the petitioner was hit by a two wheeler.

3. The learned counsel for the petitioner would submit that immediately on coming to know about the said discrepancy found in the First Information Report, the petitioner made a representation to the first respondent dated 18.06.2018 and requested the first respondent to allot the case to a competent officer for the purpose of further investigation. In spite of receipt of his representation, no action was taken. The petitioner has filed the present petition for transfer of investigation.

4. The learned Government Advocate (Crl.Side) would submit that the specific case of the petitioner is that his two wheeler was hit by another two wheeler. Later the petitioner has changed his version and had pointed out that the Tata Ace vehicle to be the offending vehicle. Immediately after the receipt of the representation made by the petitioner, the second respondent police have enquired the owner of the said Tata Ace Vehicle and found that the vehicle was not even taken out on the date of accident. The second respondent police had also examined the Auto rickshaw driver who was present at the time of the accident and he had also stated that the petitioner vehicle was hit only by two wheeler. The second respondent based on the submission made by the witnesses have come to the conclusion that the petitioner has not come out with the true facts and the second respondent is not in a position to detect the real vehicle which had hit the petitioner's vehicle and thereafter prepared the final report to close the case.

5. The learned Government Advocate (Crl.Side) would submit that the closure report is yet to be filed before the Court below.

6. From the submissions made on either side, it is clear that there are disputed facts in this case. This Court exercising its powers under Section 482 of Cr.P.C cannot get into the disputed facts. Immediately after the second respondent police files closure report before the Court below, the second respondent is directed to issue RC notice to the petitioner. The petitioner is at liberty to further file protest petition before the Court below and proceed further in accordance with law.

7.. With the above direction, the Criminal Original Petition is disposed of.

Sd/  
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar (CS-IV)



To:

1. The Superintendent of Police  
Office of the Superintendent of Police  
Virudhunagar District

2. The Sub Inspector of Police  
Kariyapatti Police Station  
Kariyapatti, Virudhunagar District

3. The Deputy Superintendent of Police  
CBCID  
Virudhunagar District

4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.P.AKKINITHEVAR, Advocate, SR.No.81130

Cr1.O.P. (MD) No.15415 of 2018  
30.08.2018

AAV  
KK/RSK/SAR-4/17.09.2018/3P-6C