

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2019
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.24275 of 2014 and
Crl.M.P.No.1 of 2014

G.Sivagurunathan

... Petitioner/Accused No.2

Versus

1.State Rep by,
Inspector of Police,
District Crime Branch,
Villupuram,
(Crime No.10 fo 2012).. ..1st Respondent/Complainant

2.M.Anbazagan ..2nd Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the F.I.R in Crime No.10 of 2012 pending on the file of the 1st respondent.

For Petitioner : M/s.V.Parthiban for
M/s.V.Janakiramalu

For 1st respondent : M/s.M.Prabavathy,
Additional Public Prosecutor

For 2nd respondent : M/s.S.Arunkumar

ORDER

This Criminal Original Petition is by the petitioner/A2 to quash F.I.R in Crime No.10 of 2012, pending on the file of the 1st respondent for the offence under Section 420 of IPC.

2.The 2nd respondent/defacto complainant is the Divisional Manager, United India Insurance Company Limited, Divisional Office, Cuddalore, who lodged a complaint before the Superintendent of Police, Villupuram District on 25.04.2011 that on 26.08.2002 at about 11.00 p.m, an accident had occurred between lorry carrying paddy bags and tractor trailer. As a result, the paddy bags were strewn around. At about 11.45 p.m., TATA Sumo car bearing No.TN 32 V 2829, dashed against the on lookers of the accident. Due to which, two persons died and seven persons got injured. The Inspector of Police, Marakkanam

registered a case in Crime No.382 of 2002 for the offence under Sections 279, 337 & 304(A) of IPC and conducted investigation. During investigation, the Inspector of Police, Marakkanam sent the vehicle TATA Sumo TN 32 V 2829 for inspection to the Motor Vehicle Inspector on 28.08.2002 at about 05.30 p.m. The statement of witnesses and in the rough sketch, the position of the vehicle/TATA Sumo with its number was found. This being so, when the investigation was completed and the charge sheet was filed, it was found that the vehicle involved in the accident was shown as TATA Safari TN 20 J 2727. For the accident and loss sustained, the claimants filed claim petition before the tribunal. The Insurance company conducted an enquiry, scrutinized the documents, found that TATA Sumo Vehicle TN 32 V 2829 was not under the cover of insurance. Both the vehicles are registered in same address and belongs to brothers. Further, it is found that the vehicle TATA Safari TN 20 J 2727 did not ply in ECR Road and the vehicle TATA Sumo TN 32 V 2829 was sent to the inspection to the Motor Vehicle Inspector on 31.12.2002, four months after the accident. In view of the same, the 2nd respondent lodged the complaint with regard to fake F.I.R in Crime No.382 of 2002 and claims for the accident cases. On receipt of the same, the 1st respondent registered a case in Crime No.10 of 2012, for the offence under Section 420 of IPC against the petitioner/A2 and one Ravi Varma.

3.The learned counsel for the petitioner submitted that the Insurance company to avoid payment of compensation had given a false complaint against the petitioner. The 2nd respondent preferred C.M.A.No.1249 to 1257 of 2010 before this Court against the award passed by the tribunal. This Court by Judgment dated 30.09.2011, allowed the said appeals. One year thereafter, the complaint has been given to the 1st respondent and the same was registered as Crime No.10 of 2012. The accident in this case had taken place on 27.08.2000, charge sheet filed on 01.09.2014, which was taken on file as 29.01.2018 as C.C.No.20 of 2018 by the learned Judicial Magistrate, Tindivanam. After lapse of twelve years, this case has been lodged and there is no reason for the delay. This Court by order dated 05.09.2011 in C.M.A.No.1249 to 1257 of 2010, permitted the claimants to withdraw 25% of the deposited amount, would show that the insurance company with malafide intention has filed the complaint.

4.It is further submitted that in the criminal case during trial the eye witnesses PW1 to PW3 had deposed that it was TATA Safari TN 20 J 2727, which caused the accident. The petitioner, who is a retired police personnel of around 69 years is being victimized in this case.

5.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that due to the interim stay granted by this Court on 08.09.2014, the investigation could not be progressed.

6.The learned counsel for the 2nd respondent/Insurance Company filed the typed set of papers, containing F.I.R in Crime No.382 of 2002, motor vehicle inspection report for TATA Sumo TN 32 V 2829 and TATA Safari TN 20 J 2727, rough sketch, copy of the charge sheet in Crime No.382 of 2002, complaint dated 25.04.2011 lodged by the 2nd respondent to the Superintendent of Police, Villupuram and submitted that the Motor Accident Claim Tribunal by order dated 18.04.2013, on appreciation of the evidence had given a categorical finding that TATA Safari TN 20 J 2727 was not involved in the accident.

7.The learned counsel for the 2nd respondent further submitted during the accident, two persons died and seven persons injured, who had made claim before the Motor Accident Claim Tribunal. In the complaint the vehicle TATA Sumo TN 32 V 2829 was only given and there was no mention about TATA Safari TN 20 J 2727. The rough sketch prepared in the scene of occurrence shows only the presence of TATA Sumo vehicle. The said TATA Sumo TN 32 V 2829 vehicle was sent for inspection to Motor Vehicle Inspector and found that the vehicle was not insured. The owner of TATA Safari TN 20 J 2727 vehicle is the brother of Ravi Varma, who is the owner of TATA Sumo vehicle, used his vehicle to substitute and to escape from the payment of compensation. The petitioner connived with the 1st accused in substituting the vehicle TATA Safari TN 20 J 2727, which was not involved in the accident and caused wrongful loss to the insurance company and thereby committed the above offence.

8.Considering the rival submissions and on perusal of the materials, it is seen that the case is at the stage of investigation, the petitioner even before the investigation progressed, had approached this Court and obtained interim stay. The materials produced before this Court would show that there are enough materials to proceed in this case.

9.Taking into consideration of the case is of the year 2012 and the 2nd respondent undertakes to cooperate with the investigation by producing all relevant documents, the 1st respondent is directed to complete the investigation in Crime No.10 of 2012 and file the final report within a period of four months from the date of receipt of a copy of this order.

10.With the above direction, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

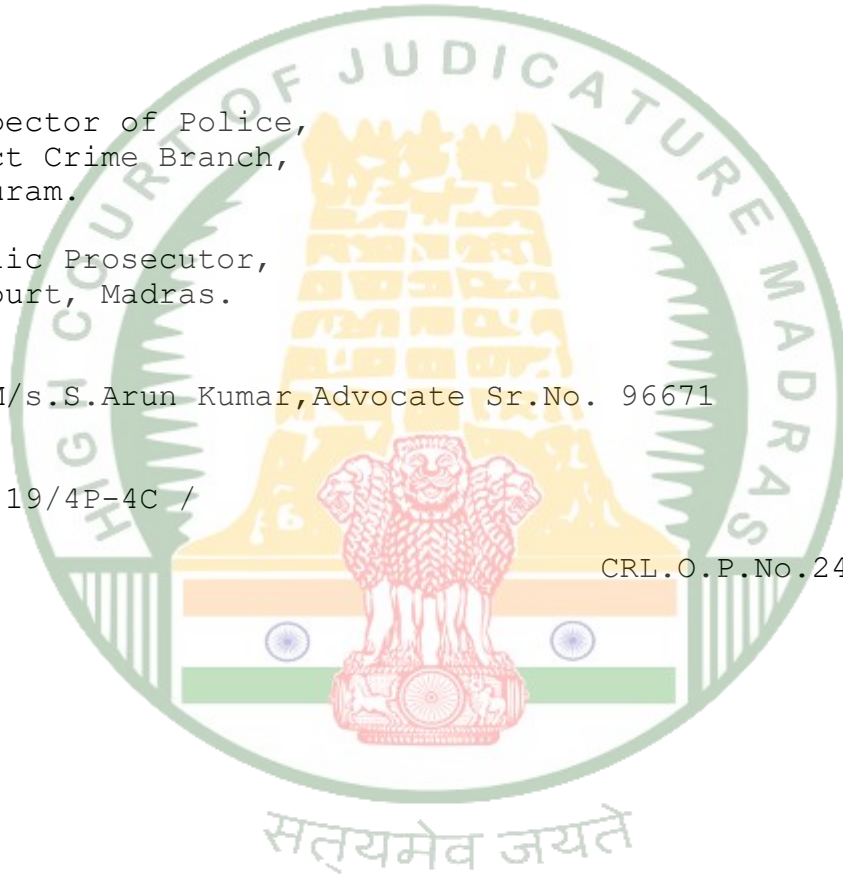
1.The Inspector of Police,
District Crime Branch,
Villupuram.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.S.Arun Kumar,Advocate Sr.No. 96671

AKM/16.12.19/4P-4C /

CRL.O.P.No.24275 of 2014



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