



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

W.P. (MD) No.14180 of 2019

and

W.M.P. (MD) .No.10650 of 2019

SBI General Insurance Company Limited,
Legal Claims & MACT Litigation,
Represented by its Regional Claims Manager,
R.Balaji,
S/o.Ramanathan,
3rd Floor, "A" Block,
Good Shepherd Square,
Kodambakkam High Road,
Nungambakkam, Chennai-600 034.

... Petitioner

Vs.

1.The Additional Director of Police,
CBCID, O/o. Additional Director of Police,
Chennai.

2.The Superintendent of Police,
Tirunelveli District.

3.The Inspector of Police,
K.V.Nallur Police Station,
Tirunelveli District.

4.A.Saraswathi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to conduct reinvestigation in charge sheet FR No.274 of 2016, dated 30.11.2016, on the file of the Judicial Magistrate, Sankarankovil, in Crime No.246 of 2014, on the file of K.V.Nallur Police Station, Tirunelveli, consequently direct the first respondent to file a charge sheet afresh within a stipulated time fixed by this Court.

For Petitioner

: Mr.S.Gokul Raj

For R-1 to R-3

: Mr.K.Suyambulinga Bharathi

**ORDER**

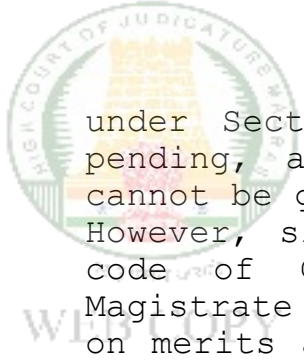
This Writ Petition has been filed seeking for a direction to the first respondent to conduct re-investigation in Crime No.246 of 2014, on the file of K.V.Nallur Police Station, Tirunelveli.

2.The petitioner is a Insurance Company. The grievance of the petitioner is that, one Albonse died in a road accident on 09.09.2016, based on a complaint given by his wife, a crime has been registered in Crime No.246 of 2016 for the offences punishable under Sections 279 and 377 of the Indian Penal Code. At the time of the accident, the deceased suffered serious injuries and he was in a private hospital, wherein he has given a statement before the Private Investigator that while driving the two wheeler he slipped and fell down on the road. Subsequently, he was shifted to another hospital, where he succumbed to injuries. Now after investigation, a final report has been filed by the third respondent Police before the learned Judicial Magistrate, Sanakarankovil, for the offence under Section 304 (A) of the Indian Penal Code against one Chockalingam, a driver of a mini lorry, on the ground that he dashed the mini lorry against the deceased.

3.According to the petitioner, as per the earlier statement given by the deceased, he was slipped down and sustained injuries and the accident was not caused by the driver of the mini lorry. But now the complainant has fabricated the document in order to get compensation. Subsequently, she has also filed a claim petition claiming compensation, in M.C.O.P.No.1391 of 2016, on the file of the Motor Accidents Claim Tribunal, Tirunelveli. He further submitted that it is a clear case of forgery. In the above circumstances, he has filed a representation before the first respondent seeking for re-investigation of the case. But the representation was not considered so far, hence the petitioner has filed the present Writ Petition.

4.Today, when the matter was taken up for hearing, the learned Government Advocate (Crl. Side) appearing for the respondents 1 to 3 on instructions, submitted that already the final report has been filed, and the learned Judicial Magistrate also taken cognizance of the offence and the matter is pending in C.C.No.222 of 2018 on the file of the Judicial Magistrate, Sankarankovil. Now based on the representation given by the petitioner, directions given to the Superintendent of Police, Tirunelveli / Investigating Officer, filed an application under Section 173 (8) seeking for re-investigation. The application is still pending.

5.Considering the facts and circumstances of the case that, the final report has been filed and the learned Judicial Magistrate has taken cognizance of the offence, now it is stated that an application for reinvestigation was filed by the prosecution



under Section 173 (8) of the Criminal Procedure Code and it is pending, at this stage the prayer sought for by the petitioner cannot be granted. Accordingly, the Writ Petition stands dismissed. However, since the application filed under Section 173 (8) of the code of Criminal Procedure is pending, the learned Judicial Magistrate is directed to consider the same and pass suitable orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Additional Director of Police,
CBCID, O/o. Additional Director of Police,
Chennai.

2.The Superintendent of Police,
Tirunelveli District.

3.The Inspector of Police,
K.V.Nallur Police Station,
Tirunelveli District.

4.The Judicial Magistrate,
Sankarankovil.

+1 CC to M/s.S.GOKULRAJ, Advocate (SR-71532[F] dated 26/06/2019)

Order made in
W.P.(MD)No.14180 of 2019
Dated: **26.06.2019**

tsg

JM/14.08.2019/3P-6C