

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition Nos.166 and 121 of 2019

COMMON ORDER :

These two Revisions arise between the same parties out of the same MVOP.No.1906 of 2010 filed by respondent nos.1 and 2 against the petitioner and 3rd respondent claiming compensation of Rs.94,70,000/- against petitioner and 3rd respondent for causing the death of the son of respondent nos.1 and 2 in an accident which allegedly occurred on 26.07.2009.

2. During the course of trial, the petitioner-Company filed I.A.No.52 of 2018 under Order VIII Rule 1-A of Civil Procedure Code, 1908 to permit it to file copy of the Final report, which it had obtained from the Station House Officer of Punjagutta Police Station in Crime No.820 of 2009; and also I.A.No.92 of 2018 under Order XIV Rules 1 and 2 C.P.C. to issue summons to the Investigation Office / Station House Officer or any other concerned official in the said Police Station to give evidence along with total crime record pertaining to the said crime.

3. In the affidavit filed in support of these applications, it is contended that the subject accident is related to Crime No.820 of 2009; that petitioner(s) case is that the accident occurred due to sole negligence of the son of respondent nos.1 and 2 who was the rider of the motor-bike which was involved in the accident, and an eye-

witness had stated this, because of which the police had closed the case as '*action dropped*'; and therefore, they intend to file the Final report filed by the police attached to the Punjagutta Police Station and also summon the Police Officials of that Police Station.

4. The respondent nos.1 and 2 opposed the same stating that after the O.P. had been posted for arguments, these applications have been filed; that in fact, there was no such Final report filed by the Police in the Court in Crime No.820 of 2009; and that it would serve no purpose because it has not been proved to have been filed in the Criminal Court; and in any event, such Final report would not be binding on the Civil Court.

5. By separate orders dt.12.09.2018, the Court below dismissed both the applications. It observed that the Final report on which the petitioner was relying on it had not even been filed in the Criminal Court, and it cannot therefore be taken into consideration unless it is filed and accepted by the Criminal Court. It observed that whatever investigation was done by the Police and written in the case dairy of the Police cannot form part of evidence in other proceedings unless filed before the Court. It also observed that the petitioner failed to produce authenticated copy of the Final report from the Court concerned and the copy issued by the Police cannot be received in evidence; and consequently, there is no necessity to summon the Station House Officer.

6. Challenging the same, the present Civil Revision Petitions are filed.

7. The counsel for petitioners contended that the Court below erred in dismissing both the applications; that there was an amendment made to the Motor Vehicle Act, 1988 in the year 1994 and Section 158(6) was introduced, according to which any information regarding accident involving death or bodily injury to any person which is recorded or reported by Police Officer should be forwarded within thirty (30) days from the date of such recording of information to the Claims Tribunal constituted under the Act; and therefore, the Final report submitted by the police to the Criminal Court has to be received in evidence and considered by the Tribunal. He also referred to Rule 476 of the Andhra Pradesh / Telangana State Motor Vehicle Rules and contended that the Claims Tribunal is entitled to obtain whatever information is necessary from the Police, Medical or other authorities before deciding the claim.

8. According to him, under Rule 476(7), a copy of the First Information Report (F.I.R.) is also one of the items which the Claims Tribunal should take into account. He also contended that the Claims tribunal is not a Civil Court and provisions of the Civil Procedure Code, 1908 would not apply to it.

9. He also cited the decision of the Supreme Court in **Machindranath Kernath Kasar vs. D.S. Mylarappa and others**¹ to contend that principles of natural justice are attracted in proceedings under the Motor Vehicles Act and a person must be given an opportunity to defend his action. He also relied on the decision of the Delhi High Court in **New India Assurance Co. Ltd. vs. Smt. Sakshi Bhutani & Ors.**² wherein the said court observed that the certified copies of criminal record showing completion of the investigation by the police are filed showing that the driver of the vehicle was negligent, and they may be relied upon.

10. I have noted the contentions of both sides.

11. It is important to note that the application for receiving these documents have been filed at the stage of Final arguments in the case.

12. No doubt, Crime No.820 of 2009 had been registered by the Punjagutta Police Station in relation to the accident which is subject matter of the O.P. and may be a Final report has been presented to the Criminal Court by the police.

13. Such Final report, has admittedly, not been accepted by the Criminal Court.

14. Though the petitioner has quoted Section 158(6) and Sub-clauses (6) and (7) of Rule 476 of the Rules framed under the

¹ (2008) 3 S.C.C. 198

² Order dt.02.07.2012, Delhi High Court

Motor Vehicle Act in support of its plea that Final report is admissible in evidence, but a reading of the said provisions merely indicates that the First Information Report (F.I.R.) about an accident can be placed before the Tribunal deciding a claim for compensation arising out of motor accident. But, there is no reference to a Final report prepared after investigation by the police for submission to the Criminal Court.

15. Therefore, there is no provision to receive in evidence a Final report which is not even filed in the Criminal Court and accepted by it in a Motor Vehicle Accident Claim case.

16. This apart, even the judgment of a Criminal Court acquitting an accused of negligence has been held by the Supreme Court not to have any affect on the assessment of liability required in respect of motor accident cases by the Motor Accidents Claims Tribunal (See **Mangla Ram vs. Oriental Insurance Company Ltd.**³ and **N.K.V. Bros. (P) Ltd. vs. M. Karumai Ammal**⁴).

17. The basis for this principle is that the nature of proof required for establishing culpable rashness is more stringent in Criminal law than negligence sufficient to fasten the liability in tort.

18. Therefore, I am of the opinion that the Court below did not commit any error of jurisdiction in refusing to permit the Final report in the criminal case to be received in evidence at the stage of submission of arguments, or in permitting the petitioner to summon

³ (2018) 5 S.C.C. 656

⁴ (1980) 3 S.C.C. 457

the police officials attached to the Punjagutta Police Station to give evidence in that regard.

19. Accordingly, the Civil Revision Petitions fail and they are dismissed at the stage of admission. No order as to costs.

20. As a sequel, miscellaneous petitions pending if any in these Civil Revision Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 19.02.2019

Ndr/*

