

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Reserved on : 24.02.2020

Pronounced on : 17.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.OP.No.1976 of 2020

Jacob Jose Chemmankuzha ...Petitioner/Defacto complainant

Vs.

1. The Superintendent of Police,
Krishnagiri.

2.The Inspector of Police,
Kaveripattanam Police Station,
Krishnagiri District.

(Cr.No.358 of 2019)

..Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to transfer the investigation in respect of Cr.No.358 of 2019 on the file of the second respondent to some other agency from the file of the second respondent.

For Petitioner : Mr.B.Ezhilarasan

For Respondents : Mr.M. Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the defacto complainant to transfer the investigation in Cr.No.358 of 2019 from the file of the second respondent to some other agency.

2. The learned counsel for the petitioner has submitted that on 02.06.2019, the petitioner started from Ernakulam to Bangalore by driving the two wheeler bearing Registration No.KL 07 CA 6186 Yamaha FZ Bike; on the same day evening at about 5:30 p.m., while he was in Dharmapuri - Krishnagiri National Highways Road near the Ahaa Restaurant, the driver of a Scorpio car bearing Registration No.TN 78 Z 3030 has driven the said car in the same direction in a rash and negligent manner and hit on the left side of the bike. Hence, the petitioner was thrown away from the bike and he sustained serious injuries. The public who assembled in the place of occurrence had admitted the petitioner in the Government Hospital, Dharmapuri and subsequently, he was shifted to VIMS Hospital, Salem for better treatment. There he took treatment till 26.06.2019. Thereafter, he was shifted to

Rajagiri Hospital, Chunangamvely, Aluva. In the above treatment, the petitioner underwent multiple surgeries and skin grafting until 24.08.2019. During the course of the treatment, the petitioner was not able to recollect anything about the accident because of continuous treatment and medication which included sedatives. After the petitioner was discharged from the Hospital, he came to know that the second respondent has registered an FIR that the petitioner's vehicle was hit by unknown vehicle which is factually incorrect. He further submitted that the police has obtained signature from the petitioner's father who does not know Tamil language and prepared a complaint and registered an FIR. He further submitted that near the accident place, there is a restaurant, in which, CCTV camera also has been installed. If the second respondent had properly investigated the case, he would have recovered the CCTV footage; from that footage, he would have found that the Scorpio car bearing Registration No.TN 78 Z 3030 has hit against the petitioner's bike. He further submitted that the second respondent has not properly investigated the matter and therefore, he prayed to transfer the investigation to some other agency.

3. Per contra, the learned Additional Public Prosecutor has submitted that as per the complaint lodged by the petitioner's father, one unknown Tempo Coach was hit against the petitioner and based on the said complaint, the Sub-Inspector of Police Kaveripattinam Police Station has registered an FIR on 04.06.2019 in Cr.No.358 of 2019 under Sections 279 and 337 of IPC against the driver of the said unknown Tempo Coach. After registering the FIR, the Sub-Inspector of Police, Kaveripattinam Police Station has taken the matter for investigation and went to the scene of occurrence and prepared a rough sketch and observation mahazar and also examined the witnesses. He further submitted that the preliminary investigation revealed that an unknown vehicle hit against the petitioner's motor cycle. He further submitted that since in the complaint it is also stated that one Scorpio Car bearing Registration No.TN 78 Z 3030 has hit against one Tempo Coach and the said Tempo Coach, in turn, hit against the petitioner's motor cycle, the said Scorpio car was seized and produced before the motor vehicle's Inspector. He further submitted that the said Sub-Inspector of Police, is investigating the matter without any bias and hence the investigation need not be transferred to any other agency and therefore he prayed to dismiss this petition.

4. A perusal of CD file shows that based on the complaint lodged by the petitioner's father, an FIR was registered on 04.06.2019 in Cr.No.358 of 2019 on the file of the second respondent under Sections 279 and 337 of IPC. Admittedly, the petitioner's father was not an eye witness. The occurrence took place on 02.06.2019 at 05:30 p.m., Only after hearing about the said occurrence, the petitioner's father came from Ernakulam, Kerala State and from him, the

Sub-Inspector of Police, Kaveripattinam Police Station has obtained a complaint and registered an FIR. Even though in the said complaint, it is stated that the Scorpio car bearing Regn.No.TN 78 Z 3030 has hit against one Tempo Coach and in turn, the said Tempo Coach hit against the petitioner's bike, the Sub-Inspector of Police, Kaveripattinam has stated in column No.7 of the FIR (Name of the accused) as driver of an unknown vehicle. In the CD file also, he has stated that one unknown vehicle has hit against the petitioner's bike. Further, the CD file shows that the Sub-Inspector of Police went to the scene of occurrence on 04.06.2019 at 03.00 p.m., and prepared an observation mahazar in the presence of two witnesses and a rough sketch. The said Sub-Inspector of Police has examined the persons who have attested the observation mahazar and apart from that, he has not examined any other person. In the observation mahazar and also in the rough sketch, Sub-Inspector of Police has stated that nearer to the place of occurrence, one restaurant by name Ahaa family restaurant is there and one Amirtha Sweet stall also there, but he has not examined any of the persons, who were present in the said shops. Further, the petitioner has stated in his affidavit that CCTV camera has been installed in the nearby Ahaa restaurant and if the said footage is verified that would show that it was only the said Scorpio Car has hit against the petitioner's bike but even thereafter, the second respondent has not instructed the Investigating Officer (Sub-Inspector of Police) to verify the said CCTV footage. Therefore, this court is of the view that the Sub-Inspector of Police, Kaveripattinam has not investigated the matter in an appropriate manner and hence investigation has to be transferred to some other agency.

5. In the result, this petition is allowed. The first respondent is directed to transfer the investigation in Cr.No.358 of 2019 from the file of the second respondent to some other agency and monitor the investigation.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gv
To

1. The Superintendent of Police, Krishnagiri.
- 2.The Inspector of Police,
Kaveripattanam Police Station,Krishnagiri District.
3. The Public Prosecutor, High Court, Madras.

CRL.OP.No.1976 of 2020

A.SK(24/03/2020)

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