

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.4268 of 2020
and
Crl.M.P.No.2452 of 2020

Dr.N.Vijayan

... Petitioner

Vs.

The State Rep. by its
The Inspector of Police,
Mount Traffic Investigation Wing,
Pallavaram,
Chennai - 600 043.

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to direct the Additional Sessions Judge, Chengalpattu to receive the petition dated 18.02.2020 filed under Section 311, Cr.P.C r/w Section 45 of the Indian Evidence Act and proceed in accordance with the procedure established by law.

For Petitioner : Mr. K.S.Dinakaran
Senior Counsel
For M/s.Balaji Sankara Moorthy

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

सत्यमेव जयते
O R D E R

This petition has been filed by the accused No.3 to direct the Additional Sessions Judge, Chengalpattu to receive the petition dated 18.02.2020 filed under Section 311, Cr.P.C r/w Section 45 of the Indian Evidence Act and dispose of the same in accordance with law.

2. Heard Mr.K.S.Dinakaran, learned Senior Counsel appearing for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

3. The learned Senior Counsel for the petitioner has submitted that the petitioner herein has been arrayed as accused No.3 and he is facing trial for the alleged offences under Sections 304(II) r/w 109 of IPC and Section 182(A) of the Motor Vehicles Act, 1988 r/w 109 of IPC and Section 190 of the Motor Vehicles Act. He further submitted that as per the prosecution case, one M.B.Seeman (Accused No.1) was the driver of the bus bearing Registration No.TN 23-S-9952 and one Shanmugam (Juvenile) was the conductor of the bus and the above said bus belongs to Zion Matriculation Higher Secondary School, Selaiyur and the registration certificate and permit stood in the name of above said school and the petitioner herein is the Correspondent of the said school and one Paulraj (Accused No.4) was the Administrative Officer of the above school and one Prakasam (Accused No.5) was the Mechanic of the said school bus and one Rajasekaran (Accused No.6) was the Motor Vehicle Inspector, Tambaram who issued fitness certificate dated 09.07.2012 for the aforesaid bus which was the cause of the death of a child and one Ravi (Accused No.7) who is the petitioner's brother, who in order to side track the facts of the case prepared fabricated documents like agreement, etc., to help the petitioner with the help of one Yogesh Silvera (Accused No.8) and on 25.07.2007 the vehicle bearing Registration No. TN 23-S-9952 proceeded from the above school at Selaiyur at around 3.30 p.m and at that time Accused No.1 was said to have driven the vehicle and Accused No.2 (Juvenile) was the conductor.

4. He further submitted that it is further case of the prosecution that the deceased Sruthi aged about 7 years child travelled in the aforesaid bus along other children and there was hole in the sixth row of the bus and at around 4.30 P.M while the bus was proceeding towards Mudichur, the said bus was driven by the Accused No.1 in a rash and negligent manner and due to the same, the deceased Shruthi aged about 7 years child fell down through the hole under right side rear wheel and died.

5. He further submitted that during trial, on the side of the prosecution, 33 witnesses were examined and marked Ex.P1 to Ex.P28 and M.Os.1 to 6. He further submitted that after closing the evidence on the side of the prosecution, the accused were questioned under Section 313 of Cr.P.C and thereafter on the side of the accused 7 witness were examined as DW.1 to DW.7 and Exhibits D1 to D14 were marked. He further submitted that the petitioner has filed a petition on 18.02.2020 under Section 311 of Cr.P.C r/w Section 45 of the Indian Evidence Act for sending the Ex.P10 i.e., the R.C.Book of the above bus to the Forensic Science Lab, since it is the petitioner's specific case that the alleged seal and signature in Ex.P.10 are not if the petitioner and that the same were forged and fabricated to implicate the petitioner in a false case.

6. He further submitted that the learned Additional Sessions Judge, Chengalpattu received the said petition and after adjourning the case to 21.02.2020, returned the said petition through the Bench Clerk without any endorsement or order. He further submitted that the learned Additional Sessions Judge, Chengalpattu, refused to receive the said petition. He further submitted that the aforesaid R.C.Book (Ex.P.10) has to be sent to the Forensic Science Lab and get a report of handwriting expert and then only the petitioner can prove that the document is a fabricated one and hence the trial Court may be directed to receive the aforesaid petition and pass orders in accordance with law.

7. The learned Additional Public Prosecutor appearing for the respondent has submitted that suitable directions may be issued to the Trial Court.

8. Considering the aforesaid submissions, the petitioner is directed to represent the aforesaid petition within a week from the date of receipt of a copy of this order. On such representation of the petition, the trial Court is directed to dispose of the same, in accordance with law, before proceeding further in the main case.

9. With the aforesaid directions, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

ebsi

To

1. The Additional Sessions Judge,
Chengalpattu.
2. Do Thro The Principal Sessions Judge, Chengalpattu
3. The Inspector of Police,
Mount Traffic Investigation Wing,
Pallavaram,
Chennai - 600 043.

4. The Public Prosecutor,
High Court, Madras.

+3 CCS to Mr.Balaji Sankaramurthy, Advocate sr 15977.

CRL.O.P.No.4268 of 2020
and
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RJ (CO)
SP (26/02/2020)



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