

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.O.P.No.5021 of 2018
and Crl.M.P.No.2506 & 2507/2018**

1.Ramakrishna
2.B.RAjesh

... Petitioners

Vs.

State rep.by
Inspector of Police,
GRP Podhanur Police Station,
Podhanur.
Cr.No.185/2016

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., to call for the records and quash the final report in C.C.NO.26/2017 on the file of the Judicial Magistrate No.IV, Coimbatore.

For Petitioners : Mr.A.Thirumaran

For Respondent : Mr.A.Gopinath, Government Advocate
(Crl.Side)

ORDER

The petitioners have filed this petition seeking to call for the records and to quash the final report in C.C.NO.26/2017, on the file of the Judicial Magistrate No.IV, Coimbatore.

2.The case of the prosecution is that when the driver of the tipper lorry, after unloading blue metals for on-going railway project, reversing the lorry from the east side to the west side in a careless manner, it ran over on the defacto complainant's child. The child had died. Hence, the defacto complainant had lodged a police complaint. An FIR was registered and a Charge Sheet was also filed in C.C.NO.26/2017, on the file of the Judicial Magistrate No.IV, Coimbatore.

3.The learned counsel appearing for the petitioner submitted that they were the railway contractors and they were no way connected with the alleged offence and prays for quashment of C.C.NO.26/2017, on the file of the Judicial Magistrate No.IV, Coimbatore.

4. The learned Government Advocate (Crl.Side) submitted that

this issue involves adjudication on disputed question of facts and therefore, if some outer time limit is given, the Criminal Case may be given disposal as early as possible.

5. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioners to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

6. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioners. Taking into consideration, the facts and circumstances of the case, the presence of the petitioners is dispensed with and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioners shall be present before the Court below at the time of

questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

7. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.NO.26/2017, on the file of the Judicial Magistrate No.IV, Coimbatore, as expeditiously as possible. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in *Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]*. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioners and remand him to custody as per the judgment of the Hon'ble Supreme Court in *STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191)*. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/ No

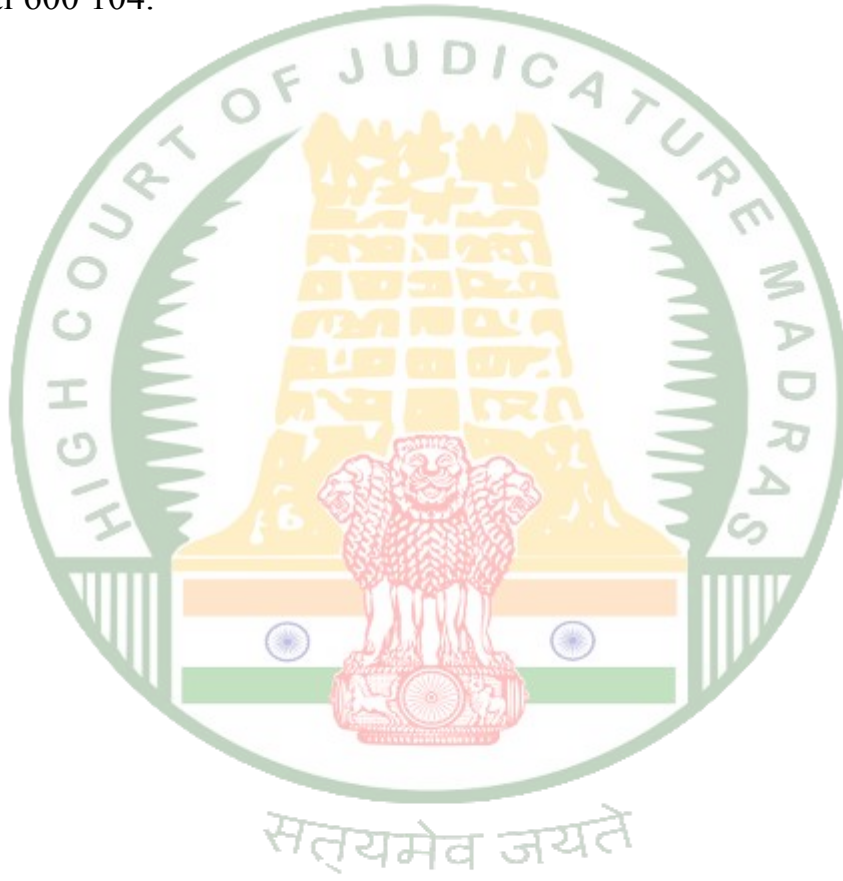
Internet: Yes/ No

To

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1. Inspector of Police,
GRP Podhanur Police Station,
Podhanur.

2. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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M.DHANDAPANI,J.
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