

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.456 of 2020

1. P.A.Lakshminarayanan
2. E.Muthu Kumar @ Moorthy ...Petitioners

...Vs...

1. State Rep by
The Inspector of Police,
Selaiyur Police Station,
Selaiyur,
(Crime No.1234 of 2017)

2. Perumal

(R2 was suo motu impleaded as per order
in Crl.R.C.No.456/2020 dated 10.12.2020) ...Respondents

PRAYER : Criminal Revision case filed under Sections 397 & 401 or Cr.P.C. to set aside the order passed in Crl.M.P.No.7177 of 2018 in C.C.No.26 of 2018 dated 28.02.2020 on the file of Judicial Magistrate-1, Tambaram by allowing the criminal revision petition.

For Petitioners : Mr.N.Balaji
For Respondents : Mr.K.Madhan (Criminal side) (R1)
Government Advocate
No appearance (R2)
R2 : No Appearance

O R D E R

The respondent police registered a case against the petitioners and another in Cr.No.1234 of 2017 for the offences punishable under Sections 279, 338 and 304(A) of I.P.C. and after investigation laid a charge sheet before the Judicial Magistrate Court-1, Tambaram in C.C.No.26 of 2018. During the pendency of the case, the petitioners filed a petition before the Judicial Magistrate under Section 239 of Cr.P.C. seeking to discharge them from the case and the said petition was dismissed vide order dated 28.02.2020. Challenging the same, the petitioners are before this Court.

2. The learned counsel for the petitioner would submit that the first accused is the driver of the vehicle and the petitioners 1 and 2 are arrayed as A2 and A3 and they are only owner and manager of the vehicle respectively, when the driver of the vehicle involved in an accident, a case was registered against the petitioners and they are no way connected with the alleged offence. But the learned Magistrate failed to consider the same and simply dismissed the petition. Therefore, he prays to set aside the order of the learned Judicial Magistrate, Tambaram.

3. Heard. Perused the records.

4. Admittedly, the petitioners were not present in the place of occurrence. Except the confession made by the first accused stating that though he requested the owner to appoint a cleaner to help him, he had failed to do so, there is no other allegation against the petitioners herein. Further, the court has to see the materials produced by the prosecution i.e, final report under Section 173 (ii) Cr.P.C. and documents annexed therein. But, the learned Magistrate failed to look into the final report filed by the respondent. However, a careful perusal of the final report filed by the respondent police under Section 173 (ii) Cr.P.C and the documents annexed therein would go to show that there is no prima facie materials against the petitioners for framing charge.

5. Under these circumstances, the order passed by the learned Judicial Magistrate is liable to be set aside and accordingly the same is set aside. However, the respondent police is directed to investigate further against the owner and manager, specifically if any other accident happened before that and the petitioners are in habit of changing the driver and asked to drive the vehicle without any assistance. Even there is no mandatory provision to appoint cleaner the drivers cannot be asked to run and maintain the vehicle without any assistance and the owners cannot extract the work from the drivers round the clock for a meager income, which would endanger to the public.

With the above direction and observation, this Criminal Revision case is disposed of. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate-1, Tambaram

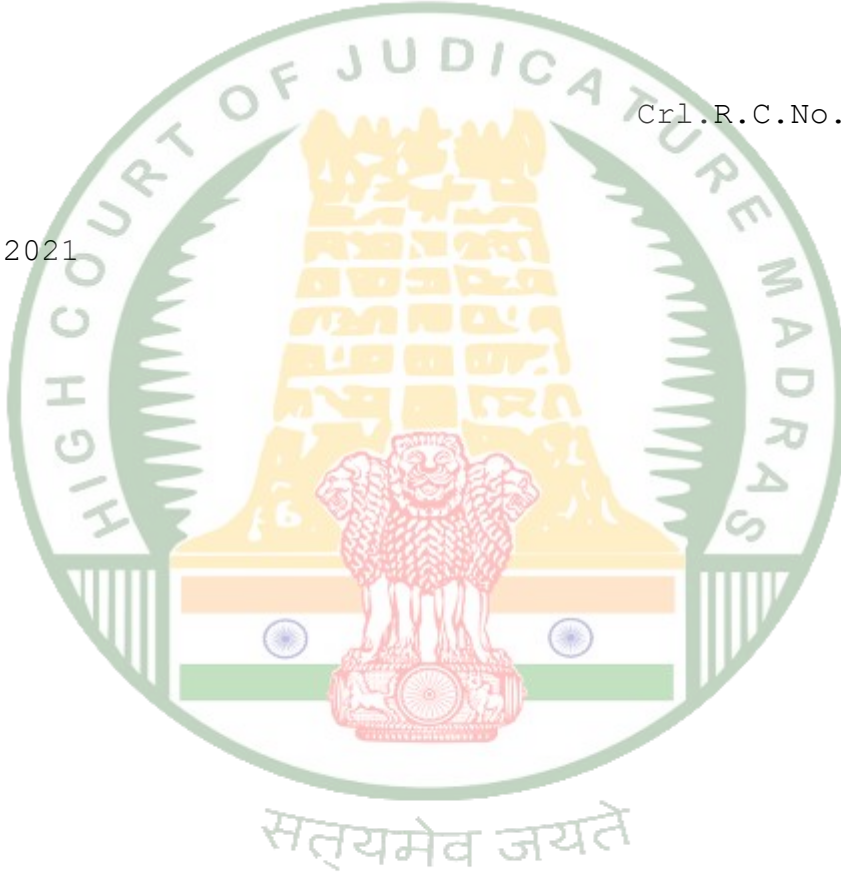
2. The Inspector of Police,
Selaiyur Police Station,
Selaiyur,

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Balaji, Advocate, SR.No.6342

Cr1.R.C.No.456 of 2020

MP (CO)
KKV/24/02/2021



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