



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 04.08.2021

ORDER PRONOUNCED : 22.10.2021

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CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**
Crl.O.P.(MD)No.10547 of 2021
and
Crl.M.P(MD)Nos.5372 and 5373 of 2021

A.Jeyaseelan ...Petitioner/Accused

Vs.

1.The Inspector of Police,
ST Kulam Police Station,
Kanyakumari,
Kanyakumari District. ...Respondent/Complainant

2.N.Ganapathi ...Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.274 of 2020 pending before the learned Judicial Magistrate III, Nagercoil, Kanyakumari District and quash the charge sheet in C.C.No.274 of 2020 pending before the learned Judicial Magistrate III, Nagercoil, Kanyakumari District.

For Petitioner : Mr.KA.Ramakrishnan

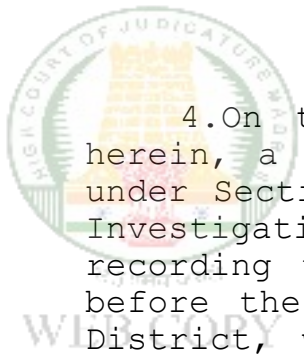
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

ORDER

This petition is filed seeking quashment of C.C.No.274 of 2020 on the file of the learned Judicial Magistrate-III, Nagercoil, Kanyakumari District.

2.The case in brief is as follows:-

3.On 03.03.2019 at about 07.30 pm., the deceased, namely, K.Sasikumar, after seeing his sister, by name, K.Susila, was returning from Asaripallam in his two wheeler bearing Reg.No.TN 72 N 8788 CT 100. When he came near the place of occurrence, a vehicle bearing Reg.No.TN 74 L 9154 came in the opposite direction in a rash and negligent manner and dashed against him, as a result of which, he sustained injuries and died on the spot.



4.On the basis of the complaint given by the 2nd respondent herein, a case in Crime No.29 of 2019 for the offences punishable under Section 304(A) of IPC was registered against this petitioner. Investigation was undertaken and after collecting materials and also recording the statements of the witnesses, final report was filed before the learned Judicial Magistrate-III, Nagercoil, Kanyakumari District, which was also taken on file in C.C.No.274 of 2020 and now, it is pending.

5.Seeking quashment of the aforesaid final report, this petition came to be filed mainly on the ground that the vehicle number was corrected as TN 74 L 9165 instead of TN 74 L 9154. For correcting the vehicle number, the second complaint was given on 08.04.2019. This according to the learned counsel for the petitioner shows that the petitioner is not involved in the occurrence.

6.The Motor Vehicle Inspector inspected the vehicle on 21.03.2019 bearing Reg.No. TN 74 L 9154 and the inspection report was also issued on 21.03.2019, wherein, the vehicle number is mentioned as TN 74 L 9154. So, the examination conducted by the Motor Vehicle Inspector is not in relating to vehicle number TN 74 L 9165. The owner of the vehicle bearing Reg.No. TN 74 L 9165 was not at all examined during the course of investigation.

7.Heard both sides.

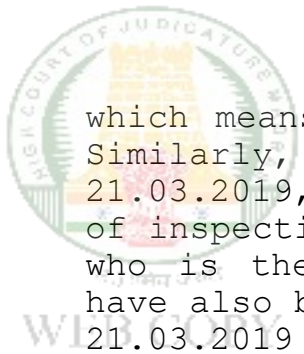
8.When the matter was taken up for hearing at the time of admission, notice was not ordered to the 2nd respondent herein, since only technical issue has been raised by the petitioner on the basis of the material that has been collected during the course of investigation.

9.The occurrence, which is said to have been taken on place on 03.03.2019 at about 07.30 pm., has not been denied and disputed. In the First Information Report, it has been specifically stated that this petitioner was driving the vehicle bearing Reg.No. TN 74 L 9154 in the opposite direction of the deceased's vehicle in a rash and negligent manner and hit against the deceased. At that time, the headlight of the offending vehicle was not functioning.

10.Later, during the course of investigation, on 08.04.2019, the 2nd respondent has given a statement to the 1st respondent herein to the effect that during the presentation of the complaint, he has wrongly stated the vehicle number as TN 74 L 9154 instead of TN 74 L 9165. Similarly, he has wrongly stated the deceased's vehicle number as TN 72 N 8788 instead of TN 72 M 8788. On that basis, investigation has been undertaken.

11.Since the Motor Vehicle Inspector inspected the vehicle bearing Reg.No. TN 72 M 8788, which was driven by the deceased, device reports were made in the vehicle. It was undertaken on 21.03.2019,

<https://hcrs.courts.gov.in/e-services/>



which means after a lapse of 18 days from the date of occurrence. Similarly, the alleged offending vehicle was also inspected on 21.03.2019, which is mentioned as TN 74 L 9165. During the course of inspection, the name of the driver has been stated as Jeyaseelan, who is the petitioner herein and the driving licence particulars have also been correctly mentioned. The requisition has been sent on 21.03.2019 and on the same day itself, it has been examined or inspected.

12.Now, the argument of the learned counsel for the petitioner is that because of the change of vehicle registration number, the investigation has not been properly undertaken as to the vehicle involved in the alleged occurrence and with this defect, if the trial is allowed to go on, then it will end in acquittal. On that basis, this petitioner may not be ordered to undergo the ordeal of trial. When the statement of the 2nd respondent was recorded on 04.03.2019, he has stated that the correct vehicle number is TN 74 L 9165. But, he has wrongly stated the vehicle number at the time of presenting the complaint. So, the mistake that has been committed by the 2nd respondent herein can be decided only during the course of trial, in which, this Court cannot go in detail. How the mistake took place, how it was corrected and what was the vehicle, which was involved in the occurrence are all matters for trial.

13.The statements of the eye witnesses have also been recorded during the course of investigation. The question whether the vehicle was recovered or seized can be answered only during the course of trial from the evidence of the Investigating Officer. The eye witnesses, namely, Maheswaran and Manoharan have stated that the vehicle, which was involved in the occurrence, number is TN 74 L 9165. Their statements were recorded on the next date of occurrence. So, the veracity of this information can also be decided only during the course of trial. When the eye witnesses accounts are there, the petitioner cannot take advantage of the mistakes or defects that has been committed during the course of filing the complaint.

14.The learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka Vs. L.Muniswamy and others** reported in **(1977) 3 SCR 113** for the purpose of arguing that he projected the question, which was forced by the Hon'ble Supreme Court to the counsel for the State. The question and the observation of the Hon'ble Supreme Court are extracted hereunder for better appreciation.

"8..... We asked the State Counsel time and again to point out any data or material on the basis of which a reasonable likelihood of the respondents being convicted of any offence in connection with the attempted murder of the complainant could be predicated. A few bites here and a few bits there on which the prosecution proposes to rely are woefully inadequate for connecting the



respondents with the crime, howsoever skilfully one may attempt to weave those bits into a presentable whole. There is no material on the record on which any tribunal could reasonably convict the respondents for any offence connected with the assault on the complainant....."

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15.The learned counsel for the petitioner would heavily rely upon the further statement that has been given by the 2nd respondent herein on 08.04.2019. According to him, it was not given on 04.03.2019 and was given only on 08.04.2019 as found in the endorsement made by the 1st respondent herein.

16.No doubt, there is an endorsement by the 1st respondent to the effect that the alteration statement was given to him only on 08.04.2019. But as I mentioned earlier, on the next date of occurrence, the statement of the 2nd respondent has been recorded and at that time, he has given the correct vehicle number. So, as I mentioned earlier, these are the factual aspects and that can be considered only during the course of trial. The questions whether the statement was recorded on 04.03.2019 itself or belatedly by antedating the same or whether the alteration statement has been given on 08.04.2019 are all the matters for appreciation of evidence during the trial proceedings. So, the question as well as the observation that has been given by the Hon'ble Supreme Court in the aforesaid judgment are noway helpful to this petitioner. In this case, the facts and circumstances are clearly not same.

17.I find no merit in this petition and find no reason to quash the proceedings also. This petition deserves to be dismissed and accordingly, it stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate III,
Nagercoil,

<https://hcservices.ecourts.gov.in/hcservices/>
Kanyakumari District.



2.The Inspector of Police,
ST Kulam Police Station,
Kanyakumari,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD) No.10547 of 2021
22.10.2021

MGJ/JGB(08.11.2021) 5P 4C