



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.20182 of 2021

and

Crl.M.P. (MD) No.11413 of 2021

Prabhakaran

... Petitioner/Sole Accused

vs.

1.The State rep. by
The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
(Crime No.272 of 2021)

... 1st Respondent/Complainant

2.Alex

... 2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to FIR in Crime No.272 of 2021 on the file of the first respondent police and quash the same as illegal.

For Petitioner : Mr.C.Senthil Murugan
For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

The petitioner is working as an ambulance driver. Following the instruction from the emergency control room in the early hours of 13.05.2021, the petitioner took a corona patient to Government Hospital, Sivagangai in the Tempo Traveller Vehicle bearing Registration No.TN 20 G 3234. When the vehicle was proceeding in the Bye Pass Road near Sivagangai-Melur Junction at about 4.40 a.m. a few stray dogs suddenly darted across the road. To avoid hitting them, the petitioner applied what is known in common parlance as 'sudden brake'. As a result, the vehicle capsized. Fortunately, the passengers including the patient escaped without any injury. The vehicle suffered minor damage. The lab technician who was travelling in the vehicle lodged information before the first respondent police leading to registration of the impugned FIR for the offence under Section 279 of IPC. To quash the same, this criminal original petition has



2. Section 279 of IPC is as follows:-

"Rash driving or riding on a public way -

Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

Driving or riding any vehicle on any public way in a rash or negligent manner is punishable. Speed alone cannot be determinative of rashness or negligence. The standard that is otherwise applied may have to be relaxed to some extent in the case of vehicles engaged in rescue works. In the present case, the petitioner cannot be blamed for having driven the vehicle at high speed. The capsizing took place because of the abrupt application of brake. Even according to the prosecution, the petitioner did so to avoid hitting some stray dogs. The conduct of the petitioner shows that he is a sensitive person. Article 51 A of the Constitution of India states that it shall be the duty of every citizen of India to have compassion for living creatures. The petitioner had exhibited his compassion. He does not deserve to be prosecuted for having discharged his constitutional duty. Every time we travel on the highways, we find scores of stray dogs and sometimes even cattle lying dead or grievously injured on account of the speeding vehicles. If those driving such vehicles show elementary compassion, such accidents can be avoided. Unlike such persons, the petitioner herein had by his conduct saved the lives of those stray dogs. Instead of appreciating him, the system is prosecuting him. When no person has suffered any injury, registration of the impugned FIR against the petitioner was not warranted. If any final report had already been filed, it shall not be taken on file by the jurisdictional magistrate. The prosecution against the petitioner stands quashed. This criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

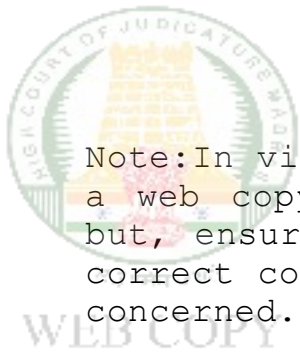
Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



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 Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.SENTHIL MURUGAN, Advocate (SR-39401[F] dated 17/12/2021)

Crl.O.P(MD)No.20182 of 2021

17.12.2021

USK/25.03.2022/3P/4C