



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 04.03.2021

DATE ON WHICH PRONOUNCED : 01.04.2021

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.12106 of 2017

and

Crl MP(MD)No.8367 of 2017

Ilango ... Petitioner/Sole Accused

Vs.

1.The State rep by
The Inspector of Police,
Ottanchatram Police Station,
Dindigul District. ... 1st Respondent/Complainant

2.Mallika ... 2nd Respondent/Defacto Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the Charge Sheet in C.C.No.283 of 2016 on the file of Judicial Magistrate Court, Ottanchatram and quash the same as illegal.

For Petitioner: Mr.M.Mahaboob Athiff
For R1 : Mr.M.Ganesan,
Government Advocate (Crl.Side)
For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.283 of 2016 on the file of Judicial Magistrate Court, Ottanchatram.

2. The case of the prosecution in brief:-

i) On 03.08.2014, at about 02.00 p.m, the deceased was riding a two wheeler bearing Registration No.57-AW-5631 in Madurai - Dindigul Highway along with his wife, namely, Lakshmi. When they were nearing the place of occurrence, the car was driven by its driver namely, Ilango van, who is the petitioner herein, bearing Registration No.59-BA-5476, in a rash and negligent manner and dashed against the deceased, as a result of which, the deceased fell down and sustained injuries. He was taken to the Government Hospital, Ottanchatram and later, to the Government Rajaji Hospital, Madurai and there he died



on 07.08.2014, at about 01.00 a.m.

ii) So, based upon the compliant given by the daughter of the deceased, a case in Crime No.260 of 2014 for the offences punishable under Sections 279 and 304-A IPC was registered on the file of the first respondent at about 09.00 a.m on 07.08.2014. The Investigating Officer collected materials and recorded the statements of the witnesses and filed a final report on 11.10.2014 alleging that the petitioner has committed the offences punishable under Sections 279 and 304-A IPC. The case was taken on file by the Trial Court.

3. Challenging the final report, seeking quashment of the same, the accused has preferred this petition mainly on the ground that in the final report, no averments or allegations have been levelled against the petitioner stating that only because of his rash and negligent driving, the occurrence took place, since none of the ingredients mentioned in the final report are attracted against the petitioner and the final report is liable to be quashed.

4. Heard both sides.

5. It is the case of the petitioner that the deceased attempted to turn the vehicle from East - West direction to cross the road and in that process, lost the balance since both the deceased and his wife namely, Lakshmi were obese, fell down from the vehicle and suffered injuries. Whether the occurrence took place as stated by the prosecution or as stated by the petitioner cannot be a matter for discussion in this petition. They require proper evidence and proof through trial proceedings.

6. According to the petitioner, the ingredients under Section 279 IPC is not attracted. So, also, 304-A IPC since there is no allegation of rash & negligent driving on the part of the petitioner in the final report. As per the judgments of the Bombay High Court reported in **R.Krishna Ganga Raju Vs. The State of Maharashtra through Mahim Police Station** and **Khizzer Akhtar Shah Vs. The State of Maharashtra**, the final report is liable to be quashed.

7. It is the case of the prosecution that the accused drove the vehicle behind the the deceased and hit him negligently by driving the vehicle rashly and negligently. Even though, the words 'rash and negligent' is absent in the final report, a reading of the First Information Report and statements of the witnesses shows that they have clearly mentioned about the rash and negligent driving on the part of the petitioner. As mentioned earlier, it is a matter for evidence at the time of trial.

8. It is not in dispute that the deceased died due to the injuries sustained in the occurrence. So, the contention on the part of the petitioner that the act did not endanger any human life, cannot be accepted at this stage. Whether it was a self invited



accident or hit by the petitioner in a rash and negligent manner, can be considered only during the trial proceedings.

9. Moreover, the judgments cited by the petitioner have been decided on their own facts and circumstances of the case. In the first case cited, when the police men were on duty on the eve of Nakabandi day, they found the petitioner driving his vehicle recklessly and negligently in the road. They have taken into custody. So, in this circumstances only the question that arose before that Court, was whether the allegation mentioned by the prosecution would attract the offence under Section 279 IPC. So, that case is clearly distinguished from the present case.

10. In the second case, the prosecution relied upon the statement of the sole eye-witness. In the statement, at the time of the occurrence, when the deceased was crossing the road, he reached near the divider, turned back on seeing some vehicles, coming from the opposite direction and in that process, he lost his balance and dashed against the vehicle. So, on reading the statements of the sole eye-witness, the High Court came to the finding that no ingredients of the offences under Section 279 and 304-A IPC were attracted in the light of the statements of the witnesses. Because of the deceased turning back, loss of control, on seeing the vehicle coming in the opposite direction and dashed against the vehicle. So, it would clearly show that the vehicle was not driven by the driver in a rash and negligent manner. Only on that ground, the final report was quashed. But, here, this is not of such a nature. The petitioner wants to bring his defence within the four corners of pure accident as defined under Section 80 IPC. A reading of the statements of the witnesses recorded during the course of investigation, does not even remotely suggest that only the deceased while crossing the road negligently, invited the accident.

11. Moreover, if the petitioner wants to bring his case within four corners of a pure accident as defined under Section 80 IPC, that too, on account of the negligence, on the part of the deceased, it can be done only during the trial proceedings.

12. So, I am of the considered view that this is not a fit case to quash the final report. It has to be pursued to its logical conclusion. So, none of the arguments advanced by the petitioner are appealing. So, this petition deserves dismissal and accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

13. The Trial Court is directed to dispose of the case on merits without being influenced by any of the observations made by this Court in this petition.

14. After pronouncing the order, the learned counsel for the petitioner requested the Court to pass a direction to the learned



Judicial Magistrate, Ottanchatram, to dispose of the matter within a short time. So, considering his request, the Trial Court is directed to dispose of the case within a period of five months from the date of receipt of a copy of this order.

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Assistant Registrar (W)

// True Copy //

/ /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 Court,
Ottanchatram.
- 2.The Inspector of Police,
Ottanchatram Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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and
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