

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.13331 of 2016
and
Crl.M.P.No.6839 of 2016

Maria Francis Borgians

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Traffic Police Station (Rural),
Puducherry.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in STC.No.704 of 2015 on the file of Judicial Magistrate, III Puducherry, pending trial and quash the same.

For Petitioner : Mr. C.D. Johnson

For Respondent : Mr. V. Balamurugane,
Additional Public Prosecutor (Puducherry)

O R D E R

This petition is filed to call for the records in STC No.704/2015 on the file of learned Judicial Magistrate-II, Puducherry and quash the same.

2. This case was registered on the basis of a complaint given by one Marikannu in Crime No.9/2015 of Traffic PS (Rural) police, Puducherry, for the offences under Sections 279, 337 IPC. The respondent police conducted investigation and filed final report. The final report was filed for the offences under Section 279, 337, 338 IPC. It reads that on 10.01.2015 at about 16.45 hours opposite to VVP Velu House, Cuddalore-Puducherry Road, Pudu Nagar, Puducherry, the accused drove the Maruthi Wagon-R Car, bearing Registration No.TN 45 BC 1091 in a rash and negligent manner from north to south direction and dashed against the Hero Passion X pro motorcycle bearing Registration No.PY 01 CA 5676, which came in a opposite

direction and caused grievous injuries to rider Venkatesan and simple injuries to the pillion rider, Gnanamurugan.

3. Learned counsel for the petitioner submitted that petitioner was not responsible for the accident. The copies of the Accident Registers produced for Venkatesan and Gnanamurugan show that the rider of the two wheeler Venkatesan was under the influence of alcohol, when he was admitted for treatment. He also drew the attention of this Court, the Accident Inspection Report of Motor Vehicle Inspector, which shows that Venkatesan had not produced the licence when demanded. Learned counsel for the petitioner also drew the attention of this Court, the damages caused to both the vehicles.

3(i). It is his further submission that the nature of damages caused to the vehicle, especially the car, shows that only the left side of the car suffered damage. It was the rider of the two wheeler, who had come in the wrong side of the road and responsible for the accident. Therefore, it is not head on collision accident but the rider of the two wheeler under the influence of alcohol rode the two wheeler in a rash and negligent manner and caused the accident. Since the rider of the two wheeler was under the influence of alcohol, complaint was not given by him, but his brother gave a complaint. These circumstances indicate that only the rider of motorcycle was responsible for the accident and therefore, he prayed for quashing the case in STC.No.704/2015.

4. Learned Additional Public Prosecutor appearing for the State submitted that the rider suffered head injury. It is his further submission that only the car driver had dashed against the two wheeler and responsible for the accident. Therefore, the disputed question with regard to the manner in which, the accident had happened shall be decided during the trial, only after examination of witnesses. Thus, he prayed for dismissal of the petition.

5. Considered the rival submission and perused the records.

6. It is the admitted fact that there was an accident involved between a two wheeler bearing Registration No.PY01 CA5676 and Maruthi Wagon R Car bearing Registration No.TN 45 BC1091 at about 16.45 hours on 10.01.2015 opposite to VVP Velu House, Cuddalore- Puducherry Road, Pudu Nagar, Puducherry. It is also not in dispute that petitioner was driving the aforesaid car at the time of accident and one Venkatesan was riding the two wheeler. The issue is who was responsible for the accident? Whether, it was the rider Venkatesan as claimed by the learned counsel for the petitioner

or the driver, the petitioner herein, who was driving TN 45 BC1091. True, it is that the rider of the two wheeler Venkatesan was found under the influence of alcohol at the time when he was medically examines after the accident. It is equally true that he has not produced driving licence when the two wheeler was subjected for motor vehicle inspection. It is not known whether Venkatesan has driving licence but did not present it or he has no driving licence at all. Merely, because he was under the influence of alcohol and he had no driving licence, we cannot dismiss the case.

7. The defacto complainant is not an eye witness. The statements of rider and pillion rider namely Venkatesan and Gnanamurugan had been recorded. They have given statements alleging that the aforesaid car driver had come in a rash and negligent manner and dashed against the two wheeler, resulting in the accident and their suffering injuries. Same is the statement given by two eye witnesses namely Anthoniraj and Rajaraman. Their statements is that when the two wheeler was coming from south to north direction, the car was coming from north to south direction in a rash and negligent manner and dashed against the two wheeler, resulting in the accident. We cannot decide the manner in which, the accident had happened by looking at the damages caused to the vehicle. Only from the evidence of eye witnesses and the injured, this Court or any Court would be in a position to find out who was at fault.

8. Therefore, this Court is of the considered view that the eye witnesses to the accident and the victims of the accident should be examined to find out who was at fault. Therefore, necessarily trial has to be conducted to reach its logical conclusion in this case.

9. In this view of the matter, this petition is dismissed. Consequently, connected miscellaneous petition is closed. The trial Court is directed to dispose of the case without being influenced by any of the observations made in this order.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate, III Puducherry.

2.The Inspector of Police,
Traffic Police Station (Rural),
Puducherry.

3. The Public Prosecutor,
Puducheery.

+1cc to Mr.C.D.Johnson, Advocate SR.No.26578

Cr1.O.P.No.13331 of 2016 and
Cr1.M.P.No.6839 of 2016

RK(CO)
GMY(04/05/2022)