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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.2166 of 2022
and
Crl.M.P.No.952 of 2022

1.Subash ... Petitioner/Accused

Versus

1. The State, Represented by its,
The Inspector of Police,
TIW St.Thomas Mount Police Station,
Chengalpattur District.
[Crime No.174 of 2021]. ... 1st Respondent/Complainant

2. Ganesh ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records in relating to the impugned FIR in Crime No.174 of 2021 on the file of the respondent Police and to quash the same in so far as the petitioner are concerned.

For Petitioner	:	Mr.S.Nirmal Kumar
For R1	:	Mr.E.Raj Thilak, Additional Public Prosecutor
For R2	:	Mr.Berlin Prabhu

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.174 of 2021, dated 15.07.2021, on the file of the 1st respondent Police.

2.The gist of the case is that the 2nd respondent is employed as acting car driver. On 15.07.2021, the 2nd respondent proceeded from Meenambakkam Airport to Viyasarbadi in a car bearing registration No.TN 05 BT 5644. At about 04.15 a.m., when the car was passing the Officers Training Academy, G.S.T



Road, Chennai, the petitioner had driven the car bearing registration No.TN 03 M 6157 in a rash and negligent manner and dashed the car of the 2nd respondent and also crashed against the wall of Officer Training Academy. Due to accident, the passengers in the car of the 2nd respondent got injured and they were rushed to hospital by auto. The 2nd respondent lodged a complaint before the 1st respondent Police and a case in Crime No.174 of 2021, for offence under Sections 279, 337, 308, 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992 and Section 185 of the Motor Vehicles Act, 1988 was registered against the petitioner.

3.The learned counsel for the petitioner submitted that a road accident is projected as though the petitioner committed serious offence attempting to commit culpable homicide. The case has been registered against the petitioner for the only reason that the car damaged the wall of the Officer Training Academy of Army. Due to accident, no one got any serious injury leading to circumstances of culpable homicide not amounting to murder. He further submitted that at the time of accident, the petitioner was not in a drunken state. The accident might be for various other reasons. Now, the petitioner has got employment in abroad, due to pendency of FIR, he is unable to leave the country and make his livelihood. The 2nd respondent finding that the petitioner is not the reason for the accident, came forward to compound the offence. Hence, he prayed for quashing of FIR against the petitioner based on the compromise.

4.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that in this case, the FIR registered on 15.07.2021. The petitioner was arrested from the accident spot and later produced for remand and he was in judicial custody for 19 days. He further submitted that the petitioner does not deny the accident happened on 15.07.2021. Due to the accident, damage was caused to the 2nd respondent's car as well as to the wall of the Officer Training Academy, Chennai. After the accident, the vehicles were produced before the Motor Vehicle Inspector for inspection. The Motor Vehicle Report confirms that the accident is not due to mechanical defects. The petitioner driven the car in a rash and negligent manner and caused the accident is confirmed. Hence, he strongly opposed this petition.

5.This Court considered the rival submissions and perused the materials available on record.

6.It is seen that on 15.07.2021, at about 04.15 a.m., the petitioner had driven the car bearing registration No.TN 03 M 6157 and dashed the car of the 2nd respondent bearing registration No.TN 05 BT 5644 and also dashed against the wall



of Officers Training Academy, Chennai. In this case, the investigation was completed on 16.09.2021 and the final report was filed before the learned Judicial Magistrate No.I, Alandur, listing LW1 to LW14.

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7.LW1 is the driver of the car bearing registration No.TN 05 BT 5644, LW2 is the passenger in the car driven by the 2nd respondent, LW3 and LW4 are the eye witnesses, LW5 and LW6 are hearsay witnesses, LW7 and LW8 are witnesses to the Observation Mahazar, LW9 is the Sub Inspector of Police, who registered the FIR in Crime No.174 of 2021, LW10 is the Doctor attached to the C.M.O., St.Thomas Hospital, Chennai, who gave treatment to 2nd respondent immediately after the accident and issued Accident Register and Wound Certificate, LW11 is the Doctor of C.M.O Government Royapettah Hospital, Chennai, who examined the petitioner and gave certificate that the petitioner had consumed liquor and he took blood and urine samples and forwarded the same to the Forensic Department. Dr.M.Suresh, Scientific Officer from the Forensic Department, Chennai had given his report that the blood and urine samples of the petitioner not detected with Ethyl Alcohol, which is the mandatory condition to confirm the petitioner was in drunken state at the time of occurrence. On the date of occurrence, the petitioner has no license and the insurance of the vehicle got expired. Luckily, in this case no one sustained serious injury and there is no loss damage to anyone.

8.It is seen that no accident claim petition or any other petition filed by anyone with the regard accident taken place on 15.07.2021. The petitioner is aged about 25 years and he is a college student. For future career, he has to go abroad now. Due to pendency of FIR, he is at crossroads and his future is now become questionable.

9.Finding that the accident had taken place at early hours of the day and no one got seriously injured and no claim petition filed and there is no case against the petitioner similar in nature either before or after the accident and the 2nd respondent himself had come forward and submitted the compromise affidavit before this Court and considering the age of the petitioner and his future, this Court is inclined to quash the FIR against the petitioner in Crime No.174 of 2021, on the file of the 1st respondent Police.

10.Hence, the FIR in Crime No.174 of 2021, dated 15.07.2021, on the file of the 1st respondent Police is hereby quashed and the charge sheet filed pursuant to Crime No.174 of 2021 before the learned Judicial Magistrate No.I, Alandur is also quashed.



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11. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
TIW St. Thomas Mount Police Station,
Chengalpattur District.
2. The Public Prosecutor,
High Court, Madras.

Copy To:

The Judicial Magistrate Court No.I,
Alandur.

+1cc to Mr.S.Nirmal Kumar, Advocate, S.R.No.7294

CRL.O.P.No.2166 of 2022

GPL (CO)
SU (10/03/2022)