



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.11217 of 2022

Senthilkumar

... Petitioner/Accused No.2

Vs.

1. The Inspector of Police,
Keelapalur Police Station,
Keelapalur, Ariyalur District. ...1st Respondent/Complainant

2. Selvakumar ... Respondents/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., pleaded to quash the C.C.No.118 of 2021 on the file of the Judicial Magistrate - II, Ariyalur as illegal, incompetent and wholly without jurisdiction.

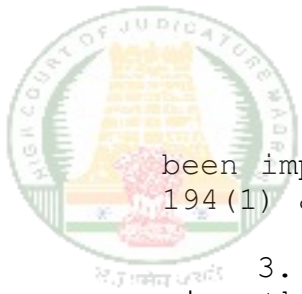
For Petitioner : Mr.V.Raghavachari

For Respondent 1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the C.C.No.118 of 2021 on the file of the Judicial Magistrate - II, Ariyalur as illegal, incompetent and wholly without jurisdiction.

2. The crux of the final report against the present petitioner is that while the de-facto complainant/R2 and his wife was traveling in two wheeler, A1 had driven the lorry bearing Registration No.TN-69-AL-5184 in a rash and negligent manner, as a result, he hit against the de-facto complainant's motorcycle. Thereby, the wife of de-facto complainant/R2 succumbed injuries. The very allegation in the complaint indicates that the driver/A1 had driven the lorry in a rash and negligent manner. The allegation attributed against A2/petitioner is that the driver/A1 of the vehicle owned by A2/petitioner has carried the maximum load in the lorry and A2 has the knowledge over the load. Thereby, A2/petitioner has also



been implicated for the offence under Sections 279, 304 (A) IPC, 194(1) & 113(1) of Motor Vehicles Act.

3. On perusal of the entire materials, this Court is of the view that the final report against A2/petitioner is without any materials and merely because the lorry has carried the excessive load, the knowledge cannot be attributed against the owner without any concrete materials. Further in order to attract the offence under Section 304 (A) of IPC, it must be established that there must be rash or negligence act on the part of the persons, who caused death.

4. Admittedly, A2/petitioner was not in the vehicle or not operated the vehicle. Therefore, merely on the basis of death, A2/petitioner cannot be implicated for the offence under Sections 279, 304 (A) IPC, 194(1) & 113(1) of Motor Vehicles Act.

5. In such a view of the matter, when the entire materials collected by the prosecution do not constitute an offence and hence continuing the prosecution against A2/petitioner is nothing but an abuse of process of law.

6. Therefore, the proceedings in C.C.No.118 of 2021 on the file of the Judicial Magistrate - II, Ariyalur against A2/petitioner alone stands quashed and the trial Court shall proceed against A1 and dispose of the matter as expeditiously as possible.

7. Accordingly, this Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

ham/rgi

To

1.The Judicial Magistrate No.II,
Ariyalur.

2. Do Through The Chief Judicial Magistrate,
Ariyalur District.



3.The Inspector of Police,
Keelapalur Police Station,
Keelapalur, Ariyalur District.

4.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.36513

Crl.O.P.No.11217 of 2022

RLD(CO)
SB(27/06/2022)