



Crl.O.P.No.23300 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.23300 of 2022
and Crl.MP.No.14881 of 2022

Mukesh Sharoon

... Petitioner

Vs

1. The Inspector of Police
V-5 Thirumangalam Police Station,
Traffic INvestigation Wing,
Villivakkam
Chennai 600 049.

2. N. Magesh

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and quash Crime No.13/22 on the file of the 1st respondent viz., Inspector of Police, V-5, Thirumangalam Police Station, Traffic Investigation Wing, Villivakkam, Chennai.

For Petitioner : Mr.I.Kowser Nissar

ORDER

This criminal original petition has been filed to call for the records and



Crl.O.P.No.23300 of 2022

quash Crime No.13/22 on the file of the 1st respondent viz., Inspector of Police, V-5, Thirumangalam Police Station, Traffic Investigation Wing, Villivakkam, Chennai.

2. The learned counsel for the petitioner submitted that on the date of occurrence i.e., on 20.01.2022 at around 8:15 p.m. complainant Magesh who is an Auto driver negligently drove the auto and caused damage to the petitioner's car bearing Registration No. TN 05 AY 3504. The petitioner suffered loss for no fault on his part and at the request of the complainant/Auto driver and his family members, the petitioner did not give any case as they neither have a valid license nor have proper papers for the vehicle and that they may not be in a position to face the legal proceedings. Later the Auto driver gave a complaint against the petitioner and the respondent police registered a case against this petitioner and not against the Auto driver. The petitioner is a final year Law College student and that for no fault on his part FIR has been registered against him, hence he pleaded to quash the FIR.

3. The learned Government Advocate (Crl.side) denied the allegation



Crl.O.P.No.23300 of 2022

stated by the learned counsel for the petitioner and further submitted that a case has been registered on the complaint given by the Auto driver further during the accident the Auto driver sustained injury in his left leg knee and the person who was travelling in the auto also sustained injuries in his right leg knee and the case is under investigation. Hence objected to quash the FIR.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the records, it is seen that the petitioner is an accused in a case registered in Crime No.13 of 2022 by the respondent police under Section 279, 337 IPC on a complaint given by one Magesh Auto Driver on 21.01.2022. In the complaint it is alleged that on 20.01.2022 at 8:15 p.m. at Thirumangalam road near Crescent hotel the auto driver was driving his auto bearing Reg.No.TN 12 T 5602 along with his customer and at that time a car bearing Reg.No.TN 05 AY 3504 came in the other side and hit the auto on its right side and thereby auto driver sustained injuries on his left leg knee and also person who travelled in the auto sustained injuries on his right leg knee. Thereafter the Auto driver gave a complaint against the driver of the Car and a



case has been registered. On perusal of the records prima facie offence is made out and investigation is going on and does not meet the parameters laid out to quash the FIR which is extracted as below:-

In **1992 SUPP (1) SUPREME COURT CASES – 335 STATE OF HARYANA AND OTHERS Vs. BHAJAN LAL AND OTHERS**, the Hon'ble Apex Court has set out the following guidelines for quashing the complaint.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence



collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the



concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. That apart the Hon'ble Supreme Court in (***Neeharika Infrastructure P Ltd., Vs. State of Maharashtra and others***) reported in 2021 (2) MWN Cr.90 (SC) has issued guidelines and has held that quashing of an FIR should be an exception and a rarity than an ordinary rule. Quashing of the FIR at the time of investigation is not proper, investigation has to be conducted to find out the truth. I find no merits in this case, hence the criminal original petition stand dismissed. Consequently connected miscellaneous petition is also closed.

27.09.2022

Internet:Yes
Speaking/Non speaking order
dpq



WEB COPY



Crl.O.P.No.23300 of 2022

To

1. The Inspector of Police
V-5 Thirumangalam Police Station,
Traffic Investigation Wing,
Villivakkam
Chennai 600 049.

2. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.23300 of 2022

V. SIVAGNANAM, J.

dpq

Crl.O.P.No.23300 of 2022

27.09.2022