



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2022

CORAM

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P. (MD)No.2942 of 2022

Kalimuthu

... Petitioner/3rd Party
Owner of the Vehicle

Vs.

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police,
Traffic Investigation Wing - II, Tallakulam,
Madurai City.
3. The Inspector of Police,
CBCID,
No.7, Kamarajar 2nd Street,
Chinna Chokkikulam,
Madurai.

4. Nagarajan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the first respondent to withdraw the investigation of the FIR in Crime No.323 of 2018 from the file of the second respondent and to transfer the same to the third respondent or any other competent and suitable investigating officer for conducting appropriate investigation.

For Petitioner : Mr.S.Angappan

For RR 1 to 3 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R-4 : M/s.Rajeswari

**ORDER**

The petitioner has filed the present Criminal Original Petition for change of investigation in Crime No.323 of 2018 from the file of the second respondent to the file of the third respondent or to any other competent investigating agency.

2.The case of the petitioner is that he owned Tata 407 Maxi Cab Van, bearing Registration No.TN-58-W-3557 and he is the driver of the said vehicle. On 23.11.2018, he drove his vehicle with 23 passengers from Mannur to Trichy to attend a funeral. He started the vehicle from Trichy at about 09.00 p.m., on 23.11.2018 and reached Mannur on 24.11.2018 at about 03.00 hours in the early morning. There was an accident took place near to BJP Thidal in Madurai Vandiyur Ring Road and one Muthuram, who worked as a driver in the Transport Department died in the above said accident. In connection with the said accident, FIR was registered in Crime No.323 of 2018 for the offences under Sections 279 and 304(A) I.P.C and also under Section 187 of the Motor Vehicles Act, 1988, on the file of the second respondent. In connection with the accident, the petitioner was called for enquiry and the petitioner appeared before the second respondent and explained that he did not commit any accident through his vehicle. However, the second respondent police forcibly took his vehicle and foisted the case as against the petitioner.

3.Further, the case of the petitioner is that the petitioner's vehicle crossed the Chittampatti Tollgate, Madurai at about 23:04:28 hours. The distance between the Chittampatti Tollgate to Madurai Ring Road is nearly 12 kilometers and the travelling time would take nearly 15 minutes. Therefore, it is clear that the petitioner's vehicle could have reached the Madurai Ring Road only after 23.20 hours, whereas, the accident was alleged to have been taken place on 23.11.2018 at about 23.00 hours. Therefore, the petitioner's vehicle did not involve in the alleged accident. Further, the second respondent foisted a false case against the petitioner and seized his vehicle as if the petitioner committed the accident. Therefore, the petitioner repeatedly has sent representations to the first respondent, but of no avail.

4.The learned Additional Public Prosecutor would submit that as per the report received from the Forensic Science Department with regard to the articles sent for Forensic Report and all are matched with the petitioner's vehicle and opined that the blue paint smears found in item No.1 could be the result of paint transfer from the alleged vehicle, from which the control paint, item 4A was collected. Based on the said report, the second respondent confirmed that the petitioner's vehicle involved in the accident and about to file a final report.



5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 to 3.

6. In view of the above, the second respondent is directed to consider the representation with regard to the Toll gate by the petitioner's vehicle at Chittampatti Toll gate to Madurai Ring Road and after conducting due investigation from the petitioner and other witnesses file a final report within a period of eight weeks from the date of receipt of a copy of this order. Since the petitioner is being an accused has no say in respect of investigation. However, the first respondent is directed to monitor the investigation conducted by the second respondent and ensure that the second respondent conducted the investigation, considering the representation submitted by the petitioner.

7. With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

// True Copy //

/ /2022
Sub Assistant Registrar

ps

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 Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police,
Traffic Investigation Wing - II, Tallakulam,
Madurai City.



3. The Inspector of Police,
CBCID,
No.7, Kamarajar 2nd Street,
Chinna Chokkikulam,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate
(SR-5640[F] dated 11/02/2022)

Order made in
Crl.O.P(MD)No.2942 of 2022
11.02.2022

SP/01/03/2022/4P/6C