



CrI.O.P.(MD) No.14785 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.14785 of 2022

and

CrI.M.P(MD)No.9606 of 2022

Rositta

...Petitioner

VS

**1.The State of Tamil Nadu,
represented by the Director General of Police,
(Law and Order),
Dr.Radhakrishnan Road, Mylapore, Chennai.**

**2.The Director General of Police (Crime),
Crime Branch Crime Investigation Department (CB-CID),
No.3, First Floor, SIDCO Electronics Complex,
Guindy, Chennai- 600 032.**

**3.The Superintendent of Police,
Kanniyakumari District.**

**4.The Inspector of Police,
Ethamozhi Police Station,
Kanniyakumari District.
(Cr.No.38 of 2022)**

...Respondents

**PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to withdraw and change the investigation in Cr.No.38 of 2022
from the fourth Respondent to second Respondent herein or any other
competent investigation agency and file the final report within a
stipulated period as fixed by this Court.**



WEB COPY



Crl.O.P.(MD) No.14785 of 2022

For Petitioner : Mr.K.Vamanan
For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the first Respondent to withdraw the case in Crime No.38 of 2022, dated 20.02.2022 on the file of the fourth Respondent and entrust the same to the investigation of the second Respondent and further file a report before the jurisdictional Magistrate.

2.The learned Counsel for the Petitioner submitted that in connection with the same Cr.No.38 of 2022, Petition in Crl.O.P(MD)No.17219 of 2022 was allowed by this Court on 09.11.2022. The learned Counsel for the Petitioner herein disputed the claim of the prosecution. As per his submission, a tempo is alleged to have hit both the vehicles and it is not a case of head on collision by two two-wheelers. The Petitioner had immediately furnished the details to the Respondent Police, but, they did not enquire or investigate on that line. The learned Counsel for the Petitioner had also pointed out that yellow paint was also found on both the two wheelers hinting a vehicle having yellow paint had collided with two two-wheelers simultaneously. The learned Counsel



Crl.O.P.(MD) No.14785 of 2022

for the Petitioner further submitted that the Petitioner had traced out the tempo vehicle and his suspicion about the said tempo and the registration number of the said tempo were also furnished by him to the Respondent Police. They did not take any steps to investigate on that line.

3.The learned Additional Public Prosecutor by way of reply submitted that investigation had proceeded fairly and they are waiting for viscera report. Regarding the viscera of Deva Arasu, from the report it is found that Deva Arasu had consumed alcohol and alcohol was detected in viscera Report. He further submitted that the fourth Respondent had already examined 15 witnesses.

3.a.It is the submission of the learned Counsel for the Petitioner that a tempo was collided and there are video footage of the same available with the Petitioner. Hence, the Investigation Officer is directed to investigate on that line including examining the Petitioner and recording the statement of the Petitioner under Section 161 Cr.P.C., along with video footage, that he had found regarding the accident. With the above, the Investigation Officer is directed to proceed further with the investigation.



Crl.O.P.(MD) No.14785 of 2022

4.In the light of the order passed by this Court in Crl.O.P.(MD)No.17219 of 2022, which arose out of the same accident in the same Crime Number, the Superintendent of Police, Kanniyakumari District is directed to supervise the investigation done by the fourth Respondent. If he is not satisfied with the investigation conducted by the fourth Respondent, he shall withdraw the investigation and the case diary from the file of the fourth Respondent and hand over the same to any Senior officer, who is found to be competent, impartial and fair in investigation in the assessment of the Superintendent of Police, Kanniyakumari to conduct investigation of this nature and the same shall be supervised by him, so that the investigation is free and fair and to file final report within a reasonable period, as early as possible.

5.With the above direction, the Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

11.11.2022

Index:Yes/No

cmr

4/6



Crl.O.P.(MD) No.14785 of 2022

WEB COPY

To

- 1.The Director General of Police,
(Law and Order),
Dr.Radhakrishnan Road, Mylapore, Chennai.
- 2.The Director General of Police (Crime),
Crime Branch Crime Investigation Department (CB-CID),
No.3, First Floor, SIDCO Electronics Complex,
Guindy, Chennai- 600 032.
- 3.The Superintendent of Police,
Kanniyakumari District.
- 4.The Inspector of Police,
Ethamozhi Police Station,
Kanniyakumari District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.14785 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

cmr

CRL.O.P(MD)No.14785 of 2022

11.11.2022