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Crl.O.P.No.7747 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.7747 of 2021 and
Crl.M.P.No.5109 of 2021

Chandru @ Chandrasekar

...Petitioner

Vs.

1. State rep. by,
The Inspector of Police,
Adayar Traffic Investigation Wing,
Besant Nagar,
Chennai – 600 090.

2. Kalidass

... Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the criminal proceedings made in P.R.C.No.32 of 2018 in Crime No.662/AM1/2016 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai -15 and quash the same.

For Petitioners : Mr.B.Ganesha Moorthy
For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed to quash the criminal proceedings in P.R.C.No.32 of 2018 in Crime No.662/AM1/2016 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai -15.



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2. The case of the prosecution is that on 24.10.2016, a car driven by the first accused was coming from South to North on Rajiv Gandhi Road in a rash and negligent manner and it was overtaking the vehicles on road; when the Car reached CPT first cross road junction, it hit against the Auto which was coming on the left side of the road; due to the said impact, the auto driver was thrown away from the Auto and the Car also stopped after 10 meters; the accused tried to run away from the place of occurrence; however, the defacto complainant and others are caught hold the accused; thereafter they came to know that the accused were under the influence of alcohol; the Auto driver got injured in the accident and died subsequently; the women passenger who was traveling in the auto was also badly injured. On these allegations, a case has been registered against the accused 1 to 3 in Crime No.662/AM1/2016. After completion of investigation, the charge sheet was filed against the accused.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the 1st respondent.



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4. The endorsement of the Registry shows that notice has been served to the 2nd respondent on 21.12.2022 and the service is awaited. The learned counsel for the petitioner submitted that the notice sent to R2 has been returned “unserved”. The records would show that the 2nd respondent is an informant and he is not the relative of the deceased. The list of witnesses does not show that any of the witnesses is related to the deceased victim. Since the defacto complainant is not an interested person, notice against the 2nd respondent is dispensed with.

5. The learned counsel for the petitioner (A3) submitted that the accused 1 to 3 have been charged for the offences under Section 279, 304 (ii), 308 r/w. 114 I.P.C., and 185 r/w. 188 Motor Vehicles Act. It was the first accused, who had driven the vehicle and caused the accident. The petitioner herein (A3) was just sitting at the back seat of the Car and he was not involved in the occurrence. But without making proper enquiry, the petitioner has also been implicated in this case.



6. The learned Government Advocate (Crl. Side) appearing for the 1st

respondent submitted that the petitioner and the accused 1 and 2 were friends and at the time of occurrence, all the three accused were in an intoxicated mood. Even though the 3rd respondent was sitting at the back side of the car, he has also involved in causing the accident and hence, the charge sheet has been filed against the 3rd accused also.

7. The first accused was the driver of the car which was involved in the accident. Even according to the prosecution, A2 and A3 were travelling in the Car driven by the accused at the time of occurrence. Though it is stated that all the three accused were under the influence of alcohol at the time of occurrence, A3 was not examined by the Doctor and no drunkenness certificate was issued as against him. The Doctors L.W.7 and L.W.8 have given statements concerning the accused 1 and 2 and they have stated that both the accused were under the influence of alcohol at the time of incident. The blood samples of the accused 1 and 2 were sent to the chemical analysis and the Junior Scientific officer who has been examined as L.W.13 and he has also given statement to that effect. Though the statement of the



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witnesses would show that A3 was not involved in the accident, there is no overt act on the part of the petitioner in causing accident. The records also does not show that A3 was under the influence of alcohol. Since no material is available as against A3 to make out any criminal case, it is unnecessary to subject the petitioner to undergo the ordeal of trial. Even if the materials are accepted as such without any contrary evidence that will not prove any charge against the petitioner. Hence, I feel it is appropriate that the powers of this Court under Section 482 Cr.P.C., to be exercised to quash the criminal proceedings as against the petitioner herein.

8. In view of the above stated reasons, this Criminal Original Petition stands allowed. The criminal proceedings in P.R.C.No.32 of 2018 in Crime No.662/AM1/2016 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai – 15 is quashed as against the petitioner (A3). Consequently, connected miscellaneous petition is closed.

22.02.2023

vum
Index:yes/No
Speaking order / Non speaking order

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R.N.MANJULA,J.

vum

To

1. The Inspector of Police,
Adayar Traffic Investigation Wing,
Besant Nagar,
Chennai – 600 090.
2. The Public Prosecutor,
Madras High Court,
Chennai.

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