



Crl.R.C.No.343 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.R.C.No.343 of 2020

and

Crl.M.P.No.20177 of 2022

Mrs.Nayeem Akbar

.. Petitioner

Vs.

1.State Rep.by
The Inspector of Police,
K4-Anna Nagar Police Station,
Anna Nagar, Chennai-600 040.

..Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 29.01.2020 in Crl.M.P.No.14504 of 2019 on the file of the V Metropolitan Magistrate, Egmore, Chennai and direct the respondent to register FIR and proceed with the investigation in accordance with law.

For Petitioner : Mr.V.Jayakumar

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case is filed by one Nayeem Akbar wife of Akbar being aggrieved by the order passed by the learned Judicial Magistrate on her petition filed under Section 156(3) Cr.P.C., to direct the respondent police to register the First Information Report and investigate the motor accident case which has led to the death of her husband.

2. The brief facts of the case is that Mr.Akbar while driving his two wheeler Honda Activa on 02.12.2019 at about 6.00 a.m., near Arumbakkam, Thiruveedhiamman Koil, one Muthukumar, the rider of the Scooty dashed against Akbar, both sustained injury. One Lakshmi, wife of Muthukumar has given a complaint to the respondent police, which was registered in Crime No.71 of 2019, whereas the complaint given by the petitioner was not taken for investigation by the Investigating Officer who registered the complaint given by Lakshmi, the wife of Muthukumar against the Akbar (the deceased).

3. It is contended by the petitioner that actually Muthukumar is the offender, who has violated the road rules had caused accident, but the police



without proper investigation and after examining one Sukumar, has closed the complaint as further action dropped. Having coming to know that her complaint dated 02.03.2019 has not been taken up for investigation, through lawyer she has sent a representation to the Commissioner of Police on 23.09.2019 and thereafter filed a petition before the learned Judicial Magistrate to take up her complaint for investigation under Section 156(3) Cr.P.C. The said petition was dismissed by the learned Judicial Magistrate on 29.01.2020 with the following observations:

“ On perusal of the complaint and documents it is learnt that, for the occurrence already First Information Report is registered by the respondent police station in Cr.No.71/2019. Hence for the very same occurrence another First Information Report could not be registered as per the law. If the petitioner is not satisfied with the investigation of the respondent police, the petitioner has to seek remedy contemplated in the Code of Criminal Procedure by invoking Section 200 of Cr.P.C. Hence the present prayer to register the First Information Report on forwarding the complaint as per Section 156(3) of Cr.P.C., is not maintainable in the present facts and circumstances of this case. Hence the application



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ought to be dismissed.”

4. Being aggrieved by the above said order, the present revision petition is filed by the revision petitioner. Pending revision petition, the petition to implead the said Muthukumar is also filed. This Court, on perusing the CD file and on hearing the arguments of the revision petitioner and the learned Government Advocate (Crl.Side), finds that, Investigating Officer had referred the complaint as further action dropped before filing the report. Opportunity should have been given to the petitioner herein, who has brought to the notice of the Investigating Officer about certain facts regarding the accident, which is in the nature of counter complaint. Without causing notice on her and making proper enquiry solely based on the statement of one Sukumar who has implicated the Akbar, the husband of the petitioner herein, as offender and having come to know that Akbar has died due to injury, the police has not continued investigation and referred the complaint as action dropped. By the time, they decided to drop the action, the representation of the petitioner to the Commissioner of Police reached the respondent police. In the said circumstances, they ought to have conducted proper enquiry and if satisfied that the husband of the petitioner was the offender, notice should have been given to



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her to lodge protest petition.

5. In the given facts and circumstances, though the learned Judicial Magistrate has found that the remedy for the petitioner is to prefer a complaint under Section 200 Cr.P.C., from the record, this Court finds that the statement of the petitioner herein has not been reduced in writing and she had not been intimated about the proposal to drop action to enable her to file a protest petition. In such circumstance, this Court is of the view that the respondent police shall cause notice to the petitioner for enquiry on the complainant in Crime No.71 of 2019. After recording her statement and collecting the relevant materials, they shall file a Final Report and if they still feel that the deceased Akbar is the offender, notice to be sent to the petitioner regarding the decision to drop action and enabling her to take proper action in accordance with law to file the protest petition.

6. In the light of the above order, the implead petition is not required and since the said Muthukumar will be given an opportunity by the respondent police in the course of their investigation and they may let him know about the out come of the investigation.



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7. With the above direction, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

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Internet : Yes/No

Index: Yes/No

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To

1.The V Metropolitan Magistrate, Egmore, Chennai.

2. The Inspector of Police,
K4-Anna Nagar Police Station,
Anna Nagar, Chennai-600 040.

3. The Public Prosecutor,
High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN, J.

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