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CrI.O.P.No.16425 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

CrI.O.P.No.16425 of 2021

Mr.Kabilesh

... Petitioner

Vs.

1. State Represented by,
The Inspector of Police,
Traffic Investigation Wing (East),
Coimbatore.

2. Mrs.Yashodha

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to C.C.No.967 of 2019 on the file of Judicial Magistrate No.VIII, Coimbatore and quash the proceedings initiated under Final Report dated 05.04.2019 FR-219/2019.

For Petitioner : Mr.A.Parthasarathy

For Respondents :

For R1 : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

The petition is to quash the final report against the petitioner for the alleged offences under Sections 279 and 304 (A) of Indian Penal Code.

2. The allegation is that the petitioner rode a two wheeler in a rash and negligent manner and caused the death of the husband of the defacto complainant.

3. The learned counsel for the petitioner submitted that all the witnesses are hearsay witnesses; that even the defacto complainant was not an eye-witness and her statement cannot be accepted. Since there is no legally admissible evidence, it will be a futile exercise to ask the petitioner to undergo trial. Hence, he prayed for quashing of the final report.

4. The learned Additional Public Prosecutor, per contra submitted that the matter has to be adjudicated only before the trial Court. Hence, he prayed for dismissal of the quash petition.



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5. This Court is of the view that the points raised by the petitioner have to be adjudicated only before the Trial Court. The question as to whether the de facto complainant's statement is admissible or not, is to be considered by the Trial Court. Hence, this Court is not inclined to quash the impugned final report. However, the petitioner is at liberty to raise all the points before the Trial Court and it is needless to state that the trial Court shall consider the same on merits. The appearance of the petitioner before the trial Court is dispensed with unless the trial Court considers the petitioner's appearance necessary for the progress of the trial.

6. With the above observations, this Criminal Original Petition is dismissed.

21.06.2023

Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No
rgm



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SUNDER MOHAN, J

rgm

To

The Inspector of Police,
Traffic Investigation Wing (East),
Coimbatore.

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