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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.18104 of 2023
and Crl.MP.11982 & 11983 of 2023

R.Bharathraj, M/35
S/o.Murugesan

.. Petitioner /Accused

.Vs.

1.The State rep.by
Inspector of Police
TIW Poonamallee Police Station
Chennai.

.. 1st Respondent/Complainant

2.Pradeepraj
S/o.Sowdharrajan

..2nd Respondent/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records made in C.C.No.142 of 2017, pending before the District Munsiff cum Judicial Magistrate Sriperumbudur and quash the same.

For Petitioner : Mr.M.R.Franklin

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1

ORDER

This Criminal Original Petition has been filed challenging the proceedings in C.C.No.142 of 2017, on the file of District Munsiff cum Judicial Magistrate Sriperumbudur.



2.The case of the prosecution is that on 1.10.2016 at about 8.30 pm., the petitioner was driving a two wheeler and his mother was the pillion rider and the two wheeler was travelling South to North from Kundrathur to Porur main road. All of a sudden, an unknown two wheeler turned right and the petitioner had to apply sudden brake. As a result, the petitioner lost his balance and he and his mother fell down from the bike. Unfortunately, the mother sustained head injury and she died on 4.10.2016. A Complaint was received from the brother-in-law of the petitioner and an FIR came to be registered in Crime No.1116 of 2017. The same has resulted in filing of the final report and the Court below has taken cognizance of the final report for offence u/s. 279, 304 A IPC.

3.Mr.M.R.Franklin, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) for R1.

4.On carefully going the allegations made in the final report, rough sketch and also the statement of the eye witness, it is seen that all of a sudden an unknown two wheeler turned right and the petitioner who was driving the two wheeler from South to North had to apply brakes to avoid dashing against the unknown two wheeler. Unfortunately, the petitioner lost balance and he and his mother fell down and the mother succumbed to the injuries on 4.10.2016. Even on the admitted materials, no offence has been made out u/s, 294, 304A IPC. There is no rashness or negligence on the part of the petitioner in driving the two wheeler and it is only because of the unknown two wheeler coming on the way suddenly, the



petitioner had to apply the brakes resulting in the accident. The petitioner has lost his mother and it will only add to the agony if the petitioner is made to face the proceedings before the Court below.

5. In the light of above discussion, the proceedings in C.C.No.142 of 2017, on the file of the District Munsiff cum Judicial Magistrate Sriperumbudur, is hereby quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are also closed.

17.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
KP

To

1. Inspector of Police
TIW Poonamallee Police Station
Chennai.
2. District Munsiff cum Judicial Magistrate
Sriperumbudur.
3. The Public Prosecutor
High Court, Madras.



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N. ANAND VENKATESH,, J.
KP

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