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Crl.O.P.No.22701 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22701 of 2023
and
Crl.M.P.Nos.15864 & 15865 of 2023

Srijesh

... Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Naduvattam Police Station,
The Nilgiris
(Crime No.20 of 2022)

2.M.Abraham

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in S.C.No.10 of 2023, which is pending on the file of the Mahila Court at Udthagamandalam and quash the same against the petitioner.

For Petitioner : Mr.S.Kingston Jerold

For R1 : Mr.S.Udaya Kumar
Government Advocate (Criminal Side)



ORDER

The petitioner herein is the owner of the vehicle bearing Registration No.KL 58 E 2379. On 08.02.2022 at about 3.30 p.m., at Naduvattam, D.R.Bazaar road along Ooty to Koodalur, the car has met with an accident and dashed the house of the defacto complainant after hitting one Shalini. A case has been registered against the driver of the vehicle, who is the 1st accused, for rash and negligent driving under drunken state causing damage to the property and person. This petitioner is the owner of the vehicle who incidentally travelled in the car. He is arrayed as 2nd accused for abetting A1 to drive the car knowing well that he was in drunken state.

2. The learned counsel appearing for the petitioner submitted that it was a negligent driving but not rash driving. The petitioner cannot be prosecuted either under Section 109 IPC or Section 185 of M.V.Act, since he did not allow the 1st accused to drive the car inebriated state. He further submitted that the prosecution under Section 185 of M.V.Act the person driving the vehicle should be found under the influence of alcohol exceeding 30 mg per 100 ml of blood deducted in a test by a breath analysis.



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As far as this case is concerned the prosecution has not subjected to prefer laboratory test or any of the above test. Therefore, he cannot be prosecuted under Section 185 of M.V.Act or abet A1 has committed the offence under Sections 308, 427, 279 and 337 IPC.

3. This Court on verifying the case records finds that except opinion of the doctor in a printed form and the statement under 161 Cr.P.C., there is no material to show that the blood sample and breath analysis been done to confirm that A1 had consumed alcohol and the alcohol level exceeds 30 mg per 100 ml of blood. Hence this Criminal Original Petition to quash is allowed. As far as this petitioner/2nd accused alone is quashed. Consequently, the connected Criminal Miscellaneous Petitions are also closed.

06.11.2023

Index : Yes/No
Neutral Citation : Yes/No
rpl

To

1.The Mahila Court at Udhagamandalam



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Dr.G.JAYACHANDRAN, J.

rpl

2.The Inspector of Police,
Naduvattam Police Station,
The Nilgiris

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

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