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Crl.R.C.No.1703 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1703 of 2022
&
Crl.M.P.No.19969 & 19970 of 2022

Bhagyesh Doshi

... Petitioner

Vs.

The State represented by
the Inspector of Police,
Mailam Police Station,
Mailam Tindivanam (TK),
Villupuram District.
(Cr.No.941 of 2017)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 and 401 of Cr.P.C. to set aside the order passed in Crl.M.P.No.412 of 2019 in C.C.No.64 of 2018, dated 20.10.2022 by the Judicial Magistrate No.II, Tindivanam.

For Petitioner

: Mr. K. Gnanasundaram

For Respondent

: Mr.V. Meganathan
Gov. Advocate (Crl.Side)



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ORDER

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This Revision is filed challenging the impugned order passed in Crl.M.P.No.412 of 2019 in C.C.No.64 of 2018, dated 20.10.2022 by the Judicial Magistrate No.II, Tindivanam.

2. The learned counsel for the petitioner contended that the respondent police registered a case against this petitioner/accused in Crime No.941 of 2017 for the offences punishable under sections 279 and 337 of IPC for his involvement in an accident that took place on 31.12.2017, in which, the father of the complainant died due to the petitioner's vehicle hit against him. After the death of the father of the complainant, the prosecution filed final report altering the section under section 304A IPC. Hence, he has filed an application before the trial court seeking to discharge him from the abovesaid offence. The trial court without considering the arguments and without considering the documents, dismissed the said petition seeking discharging him from the criminal proceedings.



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3. He further contended that the petitioner is not involved in the alleged accident and he is unconnected with the accident, therefore, he has to be discharged from the criminal proceedings initiated against him. Stating so, he prayed for allowing this criminal revision petition.

4. The learned Govt. Advocate (crl.side) submitted that in this case, after investigation, the police laid charge sheet for the offence under section 304 A IPC. He further submitted that one Amith, son of Hasmuk Sha was cited as LW8. He is the alleged eye-witness to the occurrence and apart from this, the said Amith has travelled along with the petitioner/accused in the vehicle that hit against the cyclist. Under these circumstances, whether the petitioner is an accused in this case or not has to be decided before the trial court after full fledged trial.

5. It is his further submission that at the time of framing of charges, the court need not go in detail about the merit of the evidence, hence, the court below has rightly dismissed the discharge petition filed by the petitioner. Hence, there is no reason to interfere with the dismissal order



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passed by the trial court. Thus, he pleaded to dismiss the revision petition.

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6. I have considered the arguments advanced on either side and perused the entire materials available on record.

7. On perusal of records, the fact reveals that the petitioner is an accused in C.C.No.64 of 2018 on the file of Judicial Magistrate II, Tindivanam. The respondent police prosecuted the petitioner/accused for having committed the offences punishable under sections 279, 337 IPC and later, the charge was altered into section 304-A IPC. Pending trial, before the trial court, the petitioner filed an application in Crl.M.P.No.412 of 2019 seeking to discharge him from the criminal proceedings initiated against him on the ground that he is unconnected with the accident. The trial court, after considering the materials on record, dismissed the discharge petition by the impugned order dated 20.10.2022 on the ground that prima facie case has been made out as against the accused person in the alleged offence.

8. On perusal of prosecution documents and the statement of



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witnesses recorded under section 161 of Cr.P.C., the prosecution relied upon the statement of one Amith, son of Hasmuk Sha, who was cited as witness No.8. From his statement, it is seen that on the date of occurrence of the alleged accident, the said Amith has travelled along with the accused and at the time of alleged occurrence, he was present along with the accused. In his statement, he has stated that on 31.12.2017, at about 6 p.m., when he was travelling along with the petitioner in a Hundai Car bearing Registration No.TN 01 AT 2356, driven by the petitioner, the car met with an accident near Kootroad proceeding towards Kooteripattu Sandhaimedu and hit against a cyclist, as a consequence, he sustained grievous injuries on his head. Subsequently, he was sent to Tindivnam Govt. Hospital for treatment. In that accident, the victim died. In the circumstances, prima facie there is an eye-witness to the occurrence. While considering framing of charges, the evidence cannot be evaluated in detail. The trial court on considering the documents filed by the prosecution, has rightly come to the conclusion that prima facie case is made out against the accused. Since there is an alleged eye witness to the occurrence, that too, he



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is accommodated with the accused at the time of occurrence of the accident,

I find no prima facie case to discharge the petitioner from the criminal proceedings initiated against him. In view of the above discussions, I find no merits in the revision petition. Hence, this Criminal revision case is dismissed.

9. At this juncture, the learned counsel for the petitioner submitted that the petitioner is a native of Chennai and he has to come to Tindivanam to attend the trial court for each and every hearing, hence he prayed that the personal appearance of the petitioner before the trial court may be dispensed with.

11. Considering the request of the learned counsel for the petitioner, the personal appearance of the petitioner before the trial court is dispensed with till the disposal of the case in C.C.No.64 of 2018, on condition that he should appear before the trial court whenever he is required for further proceedings.

12. In the result,



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- the Criminal Revision Case is dismissed. Consequently, the connected Crl.M.P.No.19969 of 2022 is closed.
- The trial court is directed to dispose of C.C.No.64 of 2018 pending on its file within a period of four months from the date of receipt of a copy of this order.
- the personal appearance of the petitioner before the trial court is dispensed with till the disposal of the case in C.C.No.64 of 2018, on condition that he should appear before the trial court whenever he is required for further proceedings. Crl.M.P.19970 of 2022 is ordered accordingly.

02.01.2023

msr

Index:Yes/no

Internet:Yes/no

To

1. The Judicial Magistrate No.II, Tindivanam.
2. The Inspector of Police,
Mailam, (Tindivanam Taluk)
Villupuram District.
3. The Public Prosecutor,
High Court of Madras, Chennai.

V.SIVAGNANAM, J.



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