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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31/03/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.RC(MD)No.118 of 2023

V.Balaguru : Petitioner/Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Paramakudi Taluk Police Station,
Paramakudi,
Ramanathapuram District.

2.Mr.M.Chellam : Respondents

PRAYER:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the impugned order in Cr.M.P No.3234 of 2022 on the file of the Judicial Magistrate, Paramakudi, dated 05/09/2022 and set aside the same.

For Petitioner : Mr.M.Saravanakumar

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

**ORDER**

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This Criminal Revision has been filed seeking in order to set aside the order passed, dated 05/09/2022 in Cr.M.P No.3234 of 2022 by the Judicial Magistrate, Paramakudi.

2.The facts in brief:-

A case in Crime No.132 of 2022 was registered on the basis of the complaint given by one conductor working in the Tamil Nadu State Transport Corporation Bus bearing registration No.TN-63-N-1999. He lodged a complaint stating that on 17/06/2022 at about 02.45 pm, he started a trip from Madurai Mattuthavani Bus Stand to Rameswaram. At about 04.50 pm near Ariyanendal graveyard, the rider of the two wheeler bearing registration No.TN-65-EX-4371 came in the opposite direction in a rash and negligent manner by overtaking a goods vehicle. On seeing the above said rash driving, he turned the bus towards left. But in-spite of that, the above said person hit the rear wheel of the Bus, fell down and sustained injuries. On the basis of the above said occurrence, a case in Crime No 132 of 2022 was registered for the offences under sections 279 and 337 IPC against the above said rider of



the two wheeler namely Guru Praveen Kumar and final report was filed, taken cognizance in STC No.939 of 2022 by the Judicial Magistrate, Paramakudi.

3.Pending the above said trial process, the petitioner herein filed a petition under section 156(3) Cr.P.C before the trial court stating that on the basis of the wrong information given by the driver of the offending vehicle, the case has been registered against his son. But actually, the occurrence took place because of the negligent driving on the part of the driver of the Corporation bus.

4.That petition was dismissed by the trial court stating that no action was taken either by the injured, who is the accused in STC No.939 of 2022 or by this petitioner in a proper manner. Since there is no evidence to show that the complaint was filed by him under section 156(3) Cr.P.C, finding that no proper particulars were furnished the above said petition was dismissed.



5. Against which, this criminal revision has been filed on the ground that trial court omitted to record the complaint copy that was submitted along with the petition.

6. No doubt that a copy of the complaint, dated 27/07/2022 was filed along with the petition and the acknowledge was also produced. No doubt that the trial court has omitted to take into account the above said complaint. But the fact remains that the son of the petitioner is facing the charge under sections 279 and 337 IPC before the Judicial Magistrate, Paramakudi. The date of occurrence stated to be on 17/06/2022 and the final report was filed and taken cognizance, on 29/11/2022.

7. It appears that pending the investigation process, this petitioner has sent a complaint dated, 27/07/2022 stating that under the false information, the case was registered against his son. But perusal of the CD file shows that during the course of investigation, the above said Guru Praveen Kumar was issued with summon to appear before the Investigating Officer. He also



8. Coming to the other aspect, whether the
 nce took place because of the negligent driving on
 t of the son of the petitioner or by the de-facto
 nant is a matter for consideration by the trial
 since it has been taken cognizance.



9.The defence that is going to be taken by the petitioner's son cannot be a matter for investigation by the police, since the defence plea should be taken only before the trial court at the time of trial. On this account also, I find no merit in this revision. The order passed by the trial court cannot be interfered though for different reasons.

10.In the result, this criminal revision is **dismissed.**

31/03/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Paramakudi.
- 2.The Inspector of Police,
Paramakudi Taluk Police Station,
Paramakudi,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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