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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.9331 of 2023

Balamurugan : Petitioner/Sole Accused

Vs.

1.The Superintendent of Police,
Theni District,
Theni.

2.The Sub Inspector of Police,
Theni Police Station,
Theni. : Respondents

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to direct the respondents to re-investigate the case in Crime No.212 of 2022 on the file of the 2nd respondent police by an independent, competent and unbiased police officer and to file fresh final report and pass such further orders.

For Petitioner : Mr.M.Suri

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

**ORDER**

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This criminal original petition is filed seeking for re-investigation of the case in Crime No.212 of 2022 on the file of the 2nd respondent, by an independent, competent and unbiased police officer and to file fresh final report.

2.The case of the prosecution in brief:-

On 23/06/2022, the de-facto complainant was riding a two wheeler bearing registration No.TN-60-AE-5134, as a pillion rider, his friend was also travelling. They were riding on the Theni-Madurai Road at about 09.20 pm. They turned to south and cross the road to go to a hotel. At that time, the vehicle bearing registration No.TN-60-R-3846, which was driving by its driver in a rash and negligent manner, caused hit on the front side of his motor cycle. Because of the above said impact, he fell down and sustained injuries. His friend Suresh Kumar also sustained injuries. Upon the above said occurrence, a case in Crime No.212 of 2022 was registered for the offences under sections 279 and 337 IPC. After completing the investigation, final report was filed charge sheeting the accused for the offences under sections 181(3), 196,



279 and 337 IPC and it was taken cognizance in STC No.2803 of 2022 by the Judicial Magistrate, Theni.

3. Seeking in-reinvestigation, this petition has been filed setting out the factual circumstances.

4. Heard both sides.

5. It is a case of rash and negligent driving, causing injury to the de-facto complainant and his friend, charging under sections 181(3), 196, 279 and 337 IPC.

6. For better understanding of the manner of the occurrence, let us take the rough sketch, which was prepared by the Investigating Officer at the time of investigation.

7. The road namely Theni-Madurai runs east-west there is a centre-median between two portions. Now, the de-facto complainant was riding from Theni to Madurai I.e., on the northern side. He took a turn in that portion to go to the southern side of the road, where the hotel is





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11. In the grounds of petition, it has been stated that he was riding the motor cycle on Theni-Madurai road from east to west direction and the complainant came in the west-east direction and suddenly crossed the road towards south without noticing the traffic and hit the accused, as a result which, he sustained multiple injuries all over the body and became unconscious and taken to the hospital and his wife gave the complaint, it was not taken properly by the respondent police and instead, they have obtained complaint from the de-facto complainant and registered a false case. The complainant and his friend sustained simple injuries. On that account, he wants re-investigation.

12. The learned counsel appearing for the petitioner would rely upon the judgment of the Hon'ble Supreme Court reported in the case of **Vinay Tyagi Vs. Irshad Ali alias Deepak and others (2013 CRI.L.J.754)**. It is a famous case on that point and elaborately discussed about the various process of further investigation and re-investigation.

13. Here, the final report has been filed. This petition is filed seeking re-investigation. On what



ground, re-investigation can be ordered has also been elaborately spelt out. We can straightaway come to the conclusion by referring the judgment of the Hon'ble Supreme Court in the case of **Neetu Kumar Nagaich Vs. State of Rajasthan and others [(2020)4 MLJ (Cr1) 162 (SC)]**. It is considered to be a logical conclusion on this issue. The judgment reference to a famous judgment in the case of **Babubhai Vs. State of Gujarat (2010)4 MLJ (Cr1) 323**. Wherein it has been held that investigation unless be fair, trial is not possible. In appropriate cases even after filing of the final report, the High Court or Supreme Court can direct re-investigation. The only aim is the prevention of miscarriage of criminal justice.

14. So the question, which arises for consideration is whether it is an appropriate case to order re-investigation and whether any failure of justice has occasioned to the petitioner herein.

15. Now coming back to the factual circumstances, as mentioned above, it is the case of the de-facto complainant that two versions have been given by the de-facto complainant in the complaint that when he was about



16. The petitioner got every right to put forth his defence before the trial court. When inconsistent facts are stated before court, it is a matter for trial, as per the evidence collected during the course of investigation. If this sort of re-investigation is ordered on the basis of contradictory facts, then in each and every case, such sort of prayer will be coming, which will absolutely carry to a chaotic situation not only in the investigation process, but also in the trial. Such sort of risk cannot be ruled out. The investigation has been completed and final report has been filed making allegation against this petitioner. But such occurrence is nothing, but proper for the trial court to take its logical conclusion. The defence that has been raised by this petitioner by way of filing this petition can be



17. So, I am of the considered view this is not a fit case to exercise the jurisdiction under 482 Cr.P.C. Accordingly, this criminal original petition stands **dismissed.**

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Index:Yes/No
Internet:Yes/No
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- 1.The Judicial Magistrate,
Theni.
- 2.The Superintendent of Police,
Theni District.
- 3.The Sub Inspector of Police,
Theni Police Station,
Theni.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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