



CrI.O.P.(MD) No.16404 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.09.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

CrI.O.P.(MD) No.16404 of 2023

and

CrI M.P (MD) Nos. 13050 and 13052 of 2023

Surya Prakash

... Petitioner

Vs.

1. The Inspector of Police,
Melur Police station,
Madurai District.
(Crime No. 313 of 2022)

2. Siva Seeman

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of charge sheet in C.C No.362 of 2022, dated 21.09.2022, before the learned Judicial Magistrate, Melur, Madurai District and quash the same as illegal.

For Petitioner

: Mr.S.M.A Jinnah

For R1

: Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



Crl.O.P.(MD) No.16404 f 2023

WEB COPY

ORDER

This Criminal Original Petition is filed under Section 482 of Cr.P.C. seeking for quashment of C.C.No.362 of 2022, dated 21.09.2022, pending on the file of the learned Judicial Magistrate, Madurai District.

2. It is submitted that on 11.06.2022, when the petitioner was travelling on a two-wheeler along with the deceased, suddenly, a dog came on into the road and on account of which, the two-wheeler hit the dog and fell down. The petitioner has received serious head injuries and the pillion rider fell down and on whom, the vehicle which was coming in opposite side ran away and thereby, the pillion rider died. It is submitted that the petitioner was not rash and negligent and he is a engineering graduate and trying for his employment in the abroad and due to pendency of this case, he is unable to leave the country.

3. Heard the learned Additional Public Prosecutor and also the learned counsel for the petitioner.



Cr.L.O.P.(MD) No.16404 f 2023

WEB COPY

4. The petitioner is preciously challenging the facts⁴ set forth by the prosecution before the trial Court. In order to decide the rash and negligent driving, the trial Court is required to see the topography of the scene of occurrence, the traffic at the relevant point of time, the condition of the road, the speed of the relevant vehicles and other connected related aspects. Unless these aspects were taken into consideration, it is very difficult to come to conclusion that the petitioner was driving in a rash or negligent manner or not. Therefore, these aspects cannot be decided in a petition under Section 482 of Cr.P.C. A fullfledged trial is required to be conducted. In view of the above, the petitioner has not made any grounds to quash C.C.No.362 of 2022, dated 21.09.2022

5. Considering the circumstances, this petition is disposed of, directing the trial Court to take steps to see that the trial is conducted as quickly as possible and dispose of the same not later than six months from the date of receipt of a copy of this order.

6. At this juncture, learned Additional Public Prosecutor assured before this Court that the respondent Police would produce the witnesses as



Crl.O.P.(MD) No.16404 f 2023

WEB COPY

directed by the trial Court. Since the petitioner is creating and making his attempt for employment, the presence of the petitioner is dispensed with during the course of trial. However, the learned trial Judge is at liberty to direct the petitioner / accused to attend the Court as and when his presence is required including for answering the charges and also 313 Cr.P.C. examination. Consequently, the connected miscellaneous petition are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
tsg
To

21.09.2023

- 1.The Judicial Magistrate
Melur,
Madurai District
- 2.The Inspector of Police,
Melur Police station,
Madurai District.
(Crime No. 313 of 2022)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.16404 of 2023

DR.D.NAGARJUN. J.

tsg

Crl.O.P.(MD) No.16404 of 2023

21.09.2023