



Crl.O.P.No.7006 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 09.02.2024

CORAM:

**THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI**

Crl.O.P.No.7006 of 2022

and

Crl.M.P.No. 3971 of 2022

Suresh

... Petitioner

Vs.

State by

1. Inspector of Police,  
Sankari Police Station,  
Salem Dt.  
(Crime No.72 of 2018)

2. Panneerselvam

.. Respondents

**PRAYER :** Criminal Original Petition filed under Sec.482 of Criminal Procedure Code, to call for the records in S.C.No. 51 of 2021 on the file of learned Asst. Sessions Judge, Sankari and quash the same.

For Petitioner : Mr.N.Sudharsan

For Respondents : Mr. S.Vinoth Kumar  
Govt. Advocate (Crl. Side) for R1



Crl.O.P.No.7006 of 2022

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## **ORDER**

This Criminal Original Petition has been filed seeking to quash the charge sheet in S.C.No. 51 of 2021 on the file of learned Asst. Sessions Judge, Sankari.

2. Heard both sides.

3. The petitioner herein is an accused in F.I.R. lodged in Crime No.72 of 2018 registered for an offence under Sec.304(2) of I.P.C. based on a complaint lodged by the 2<sup>nd</sup> respondent/defacto complainant.

4. The learned counsel for petitioner would submit that he has been falsely implicated in this case. In fact, he has not handed over the two wheeler to the deceased minor son of 2<sup>nd</sup> respondent/defacto complainant on the date of alleged occurrence and the said two wheeler bearing Regn. No.TN-30 8761 belong to Suresh, which itself proves that the petitioner is not owner of vehicle. But, the prosecution without considering the said aspect, implicated him falsely in this case. Hence, he prayed to quash the charge sheet initiated against him. He has also pointed out that as per the



Crl.O.P.No.7006 of 2022

observation mahazar, the alleged accident said to be happened in the four corners of the street, but the real fact is different. So, lot of differences in the investigation.

5. On seeing the facts, it reveals that as per the complaint, the deceased Gowsik, son of defacto complainant studied in a private school by staying in the hostel. While so, the petitioner/accused, who is van driver of school instructed 2<sup>nd</sup> respondent's son to drive his motor bike by following the van on the date of alleged occurrence, however, without having proper training, his son had driven two wheeler following the said van driver and due to sudden brake applied by the petitioner van driver, the deceased lost control and dashed against nearby water tank and a wall therein, thereby he sustained head injury and subsequently, after treatment he died. So, he was charged under Sec. 304(2) of I.P.C. in Crime No. 72 of 2018. The learned Government Advocate (Crl. Side) appearing for 1<sup>st</sup> respondent would submit that at his instructions only, the 2<sup>nd</sup> respondent's son driven the two wheeler. So, he was charged under the said offence. If at all he is having any valid defence, he has to



Crl.O.P.No.7006 of 2022

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work out his remedy before the trial court. Hence, I do not find any merit in this petition and the same is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

09.02.2024

Index : Yes / No  
Internet : Yes / No  
Speaking/Non-speaking order  
rpp

To

1. Inspector of Police,  
Sankari Police Station,  
Salem Dt.
2. The Public Prosecutor,  
High Court, Madras.



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CrI.O.P.No.7006 of 2022

**T.V.THAMILSELVI, J.**

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CrI.O.P.No.7006 of 2022

09.02.2024