



WEB COPY



Crl.O.P.No.18233 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM :

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

**Crl.O.P.No.18233 of 2024
and Crl.M.P.No.10785 of 2024**

Govindaraj

.. Petitioner

Versus

**The State represented by,
The Sub Inspector of Police,
Erode North Police Station,
Erode District.**

.. Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, for a direction to set aside the charge framed on 10.06.2024 in C.C.No.586 of 2019 on the file of the learned Judicial Magistrate No.1, Erode by appreciating the facts and circumstances.

For Petitioner : Mr.M.Guruprasad

**For Respondent : Mr.S.Udaya Kumar,
Government Advocate (Crl. Side)**

ORDER

A two wheeler bearing registration No.TN 33 AC 9115, TVS Max 100, driven by a minor boy caused death of one Periyamma on 21.09.2018.

A case was registered in Crime No.679 of 2018 for offences under Sections



Crl.O.P.No.18233 of 2024

WEB COPY

279 and 304A against the minor boy Haris. Later, in the course of investigation, having found that the vehicle is owned by the father of the juvenile conflict with law and he has abated his son to commit the crime by allowing him to ride the vehicle without license, along with juvenile, father was arrayed as an accused for alleged offence under Sections 279 and 304A of I.P.C read with 109 of I.P.C. During the course of trial, the learned Judicial Magistrate found that the Motor Vehicles Act has been amended, wherein, there is a specific provision to prosecute the owner of the vehicle who has allowed somebody without license to drive the vehicle and therefore, has altered charge against the petitioner, the father of the minor boy, for the offence under Section 181 read with 199A of the Motor Vehicles Act.

2. Learned Counsel for the petitioner states that Section 199A of the Motor Vehicles Act came into force only on 01.09.2019. Penal provision cannot be given retrospective effect since the alleged offence in this case is on 21.09.2019 which is prior to the amendment.



Crl.O.P.No.18233 of 2024

WEB COPY

3. Learned Government Advocate (Crl. Side) submits that after alteration of charge, the matter is now transferred to Additional Mahila Court, Erode for want of jurisdiction.

4. The learned Counsel for the petitioner is not in a position to say whether, after alteration of charge, the accused was questioned about the charge framed. If not, the Court shall take into consideration that Section 199A of Motor Vehicles Act has come into force only on 01.09.2019 subsequent to the occurrence and therefore, there cannot be retrospective effect for the penal provision.

5. However, on perusal of the Motor Vehicles Act, this Court finds that the owner of a vehicle has responsibility of not allowing an unauthorised person to drive his vehicle and as per Section 5 of Motor Vehicles Act, no owner or person incharge of motor vehicle shall cause or permit any person who does not satisfy the provision of Section 3 or Section 4 to drive the vehicle. Under Section 180 of the Motor Vehicles Act, whoever being the owner or person incharge of motor vehicle allows person who does not satisfy the provision of Sections 3 and 4 to drive the vehicle



Crl.O.P.No.18233 of 2024

shall be punished with imprisonment for a term which may extend to three months or with fine or with both.

6. The fine amount prior to 01.09.2019 was Rs.1,000/-, whereas, after the amendment, fine amount is Rs.5,000/-. This Court finds that while the Magistrate has thought rightly to alter the charge against this petitioner, had invoked provision which is amended subsequent to the occurrence. The Magistrate ought to have altered the charge against this petitioner for the offence under Section 180 of the Motor Vehicles Act read with Section 5 of the Motor Vehicles Act. Therefore, this Court dispose of this Criminal Original Petition with a direction to the Trial Court to take note of this and frame appropriate charge against this petitioner and proceed after affording an opportunity to the petitioner regarding the charge framed.

7. With this direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

31.07.2024

Index : yes



Crl.O.P.No.18233 of 2024

Speaking order/Non-speaking order

Neutral Citation : yes/no

grs

To

1. The Sub Inspector of Police,
Erode North Police Station,
Erode District.
2. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.18233 of 2024

Dr.G.JAYACHANDRAN, J.

grs

Crl.O.P.No.18233 of 2024
and Crl.M.P.No.10785 of 2024

31.07.2024