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Crl.R.C.No.2245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2245 of 2023 and
Crl.M.P.No.20062 of 2023

R.Somasundaram

... Petitioners

Vs.

1.State rep. by,
Inspector of Police,
Malaiyampalayam Police Station,
Crime No.160/2017.

2.D.Priya

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to call for the records on the file of the District Munsif-cum-Judicial Magistrate in CMP No.1770 of 2022 in STC No.62 of 2018 dated 27.03.2023 and set aside the same.

For Petitioner : Mr.P.Kannan Kumar
For Respondent : Mr.C.E.Pratap,
Government Advocate (Criminal Side)

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 27.03.2023 in C.M.P.No.1770 of 2022 in S.T.C.No.62 of 2018 passed by the learned District Munsif cum Judicial Magistrate, Kodumudi.



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2.The learned counsel for the petitioner submitted that immediately after the accident, the said Devarajan, husband of the 2nd respondent, was taken to the Government District Headquarters Hospital, Erode where the Casualty Doctor examined him and issued Accident Register finding that the said Devarajan was smelling with alcohol and due to consumption of alcohol, he fell down from the vehicle, which has been projected as road accident. The Investigating Officer/1st respondent Police considering these aspects, examining the witnesses present in the scene of occurrence, recording the statement of the Doctors and medical records, filed charge sheet before the learned District Munsif-cum-Judicial Magistrate, Kodumudi, for offence under Sections 279 & 338 IPC on 31.01.2018. After filing of charge sheet, the said Devarajan passed away on 29.12.2018. Hence, the 2nd respondent being wife of Devarajan filed a petition under Section 173(8) Cr.P.C., to conduct further further investigation and the same was allowed *vide* impugned order, dated 27.03.2023 which is not proper. The learned counsel for the petitioner further submitted that after the death of Devarajan, the 2nd respondent lodged a complaint to the Inspector of



Police, Rasipuram Police Station informing about the death and the FIR in Crime No.825 of 2018 registered under Section 174 Cr.P.C.

3.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that the said Devarajan who had been hit by the vehicle viz., Maruti Alto Car bearing Reg.No.TN 48 M 9488 was driven by the petitioner in a rash and negligent manner. Due to which, the said Devarajan sustained head injury and he was rushed to Government Medical Headquarters Hospital, Erode, thereafter, for better treatment, he was admitted in KMCH Speciality Hospital, Erode. He further submitted that a compliant was lodged and a case was registered in Crime No.160 of 2017 for offence under Sections 279 & 337 IPC. On conclusion of investigation, charge sheet filed which was taken on file as S.T.C.No.62 of 2018 by the learned District Munsif-cum-Judicial Magistrate, Erode. The injured Devarajan was discharge from the hospital since his health condition not improved and he was in a Coma stage. Added to it, Devarajan's family could not bear the medical expense, hence, they have taken him to residence and was providing medical aid. At times, he took treatment as inpatient in



Rasipuram Government Hospital. Later on 29.12.2018, he passed away and his wife/2nd respondent gave complaint informing that the death is due to aggravation of injury which was due to the accident done by the petitioner.

4.He further submitted that on the directions of the Court below, dated 27.03.2023, further investigation conducted based on the Postmortem report received from the Government Primary Health Centre, Kallankattu Valasu, Namakkal. It is found that an FIR in Crime No.825 of 2018, dated 29.12.2018 was registered under Section 174 Cr.P.C., by the Inspector of Police, Rasipuram Police Station on the complaint of the 2nd respondent for the petitioner's death. This FIR has been closed in view of the further investigation and the statements given therein will be used as further statement of witnesses in this case.

5.Considering the submissions and on perusal of the materials, it is seen that after the impugned order, the 1st respondent Police conducted further investigation, collected Postmortem report of Devarajan, recorded the statement of the Doctors and witnesses and filed the alteration report,



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dated 28.10.2023 altering Sections 279 & 338 of IPC to Sections 279 & 304(A) of IPC.

6.In view of the above, this Court finds no reason to interfere with the impugned order of the Court below and the same is hereby confirmed. Accordingly, this Criminal Revision Case stands dismissed.

7.The apprehension of the petitioner is that the dismissal of the above revision would affect his right during trial in S.T.C.No.62 of 2018. It is made clear that the observations made herein is only for the purpose of disposal of present Criminal Revision and the trial Court to decide the case on its own merits on the evidence and materials. The connected Miscellaneous Petition is closed.

05.01.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

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M.NIRMAL KUMAR, J.

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To

- 1.The District Munsif-cum-Judicial Magistrate,
Kodumudi.
- 2.The Inspector of Police,
Malaiyampalayam Police Station,

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05.01.2024