



Crl.O.P.(MD)No.2464 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.2464 of 2022
and
Crl.M.P.(MD)No.1813 of 2022

Gailangiri

... Petitioner

Vs.

1.The State rep.by
The Inspector of Police,
Tenkarai Police Station,
Theni District.
(In Crime No.610 of 2021)

2.Sathiya

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the altered FIR in Crime No.610 of 2021 as altered by the alteration report dated 05.11.2021 on the file of the first respondent police and quash the same as illegal.

For Petitioner : Mr.Ajmal Khan,
Senior Counsel
for M/S.Ajmal Associates.

For R1 : Mr.S.Manikandan,
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition has been filed to quash altered FIR in Crime No.610 of 2021 as altered by the alteration report dated 05.11.2021 on the file of the first respondent Police.

2.The case of the prosecution is that on 03.11.2021, the petitioner drove his vehicle in a rash and negligent manner and dashed against the defacto complainant's husband and thereby, he lost his life. Initially, the respondent Police registered a case in Cr.No.610 of 2021 for the offences punishable under Sections 279 and 304 (A) IPC. Subsequent to the investigation, the first respondent Police altered the case vide alteration report dated 05.11.2021 by altering Section as 304 IPC. Challenging the same, the present petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that it is alleged that when the deceased was walking alongside the road, a car bearing Reg.No.TN 59 BL 6707 came from opposite direction and hit him in a rash and negligent manner and due to which, the deceased



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sustained blood injuries on his left chest and thereafter, he declared as dead. Therefore, the first respondent police, initially registered the case for the offence punishable under Sections 279 and 304 (A) IPC and thereafter, without conducting proper investigation, the first respondent police filed alteration report before the learned Judicial Magistrate, Periyakulam by altering the offences into Section 304 IPC, which is not sustainable one. He further submitted that it is not the case of the prosecution that the petitioner was under the influence of alcohol, which is necessary ingredients to alter the provisions. In fact, the defacto complainant filed MCOP.No.86 of 2021 and the Tribunal also awarded a sum of Rs.21 Lakhs. However, the petitioner, on his own volition, had drawn a sum of Rs.One Lakh in favour of the defacto complainant.

4.The learned Government Advocate(Crl.side) appearing for the first respondent fairly submitted that the petitioner was not under the influence of alcohol at the time of occurrence.

5.Heard the learned counsel on either side and perused the materials available in the records.



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6.A perusal of records reveals that on 03.11.2021, when the deceased was walking alongside the road, the petitioner drove his vehicle in rash and negligent manner and dashed as against him and thereby, he died. Initially the first respondent Police registered a case in Cr.No.610 of 2021 for the offence under Sections 279 and 304 (A) IPC. Subsequent to the investigation, the first respondent Police filed alteration report before the Judicial Magistrate, Periyakulam.

7.A perusal of alteration report reveals that the respondent police arrived at a conclusion that the injuries sustained by the deceased were caused by the petitioner wantonly. However, it is not the prosecution case that the petitioner consumed alcohol and drove his vehicle. As rightly contended by the learned counsel for the petitioner, it is purely an accidental death. Hence, this Court is at loss to understand as to why the respondent Police had altered the Section from 304(A) to 304 IPC. Accordingly, the alteration report dated 05.11.2021 filed by the first respondent is hereby quashed. The petitioner is directed to face the trial for the offences punishable under Sections 279, 304(A) IPC before the concerned trial Court.



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Consequently, connected miscellaneous petition is closed.

27.02.2024

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

1. The Inspector of Police,
Tenkarai Police Station,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

gns

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