



Crl.O.P.(MD)No.2394 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.2394 of 2022

and

Crl.M.P.(MD)Nos.1757 & 1759 of 2022

Krishnamoorthi

... Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
(Crime No.1298 of 2020)

2.Ragavan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the proceedings in C.C.No.135 of 2021 pending on the file of the learned Judicial Magistrate No.II, Thanjavur District and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.R.L.Dhilipan Pandian

For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)



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For R2

: Mr.A.Arun Prasad

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.135 of 2021 pending on the file of the learned Judicial Magistrate No.II, Thanjavur District as far as the petitioner is concerned.

2.The case of the petitioner is that the petitioner is the owner of the vehicle bearing Reg.No.TN-49-BL0042 Tata Ace and he parked his vehicle at the right side of the road, in which, the deceased person drove his two wheeler bearing Reg.No.TN49 BB 2227 from Thanjavur to Mariyamman Kovil and he tried to over take the Government bus, at that time, he dashed against the petitioner's vehicle and died. Initially, the first respondent police registered a case as against the Driver of the transport corporation for the offence punishable under Sections 279 and 337 IPC and subsequently, after investigation, the respondent police filed charge sheet for the offence punishable under Section 304A IPC as



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against the petitioner herein. Challenging the same, the petitioner filed the present criminal original petition.

3.The learned counsel appearing for the petitioner would submit that though initially the first respondent police registered a case as against the driver of the transport corporation as if he hit as against the deceased, subsequently, after investigation, they filed charge sheet implicating the petitioner, as if the petitioner's vehicle was parked in the right side of the road, in which the deceased drove his vehicle and tried to over take the government bus and dashed against the petitioner's vehicle. He would further submit that the negligence is on part of the deceased, for which the petitioner need not to be prosecuted and the continuation of the prosecution is nothing but an abuse of process of law and hence, he prayed to quash the impugned charge sheet.

4.The learned counsel appearing for the second respondent would submit that the petitioner's vehicle was parked without any parking indication and when the deceased tried to over take the government bus, all of a sudden, the petitioner's vehicle was came in front of him and



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thereby, the accident was happened. He would further submit that the grounds raised in the present petition are all triable in nature and the same cannot be raised in this quash petition. Accordingly, he prayed to dismiss the present petition.

5.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below.

6.Heard the learned counsel on either side and perused the materials available in the record.

7.Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).***



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8.In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

9.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.135 of 2021 , pending on the file of the learned Judicial Magistrate No.II, Thanjavur District. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are closed. However, the Court below shall decide the present case, independently, without influenced by any observations made in this order, in the manner known to law.

10.At this juncture, the learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the



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personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

30.01.2024

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

- 1.The Judicial Magistrate No.II,
Thanjavur District.
- 2.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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