



Crl.O.P.(MD) No.4656 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.4656 of 2021

and

Crl.MP(MD)No.2628 of 2021

Mr.Pravin Raj

... Petitioner / Sole Accused

Vs.

1.The State rep by
The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
(Crime No.176 of 2014)

... Respondent / Complainant

2.T.Subin

...Respondent/ Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the Charge Sheet in C.C.No.284 of 2019 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram, Kanyakumari District and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.J.Pandi Dorai

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

For R2 : No Appearance



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ORDER

WEB COPY Seeking to quash the final report in C.C.No.284 of 2019 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram, Kanyakumari District, the present petition is filed.

2. The case of the prosecution, in a nut-shell, is as follows:-

On 06.04.2014, at about 06.45 p.m, the deceased Johnson was walking on the left hand side of the road and he was proceeding towards Sitharal. When he was nearing Munduvilai, a speeding vehicle bearing Reg.No.PY-01-N-4550 TVS Susuki hit him from behind, as a result of which, Johnson fell down and died on spot. Based on the complaint given by the deceased's brother's son, FIR in Crime No.176 of 2014 was registered by the Inspector of Police, Thiruvattar Police Station, Kanyakumari District, against the rider of the motorcycle for the alleged offences punishable under Sections 304(A) IPC and Section 187 of Motor Vehicles Act. The Inspector of Police, Thiruvattar Police Station, Kanyakumari District, after concluding investigation, laid a final report in C.C.No.284 of 2019 against the present petitioner for the aforesaid offences.



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3.Mr.J.Pandi Dorai, the learned counsel appearing for the petitioner drew the attention of this Court to the complaint dated 08.04.2014, in which, the defacto complainant had stated that a motorcycle bearing Reg.No.TN-75-K-4925 hit his paternal uncle, as a result of which, his paternal uncle died on spot. However, in 161(3) Cr.P.C., statement, he has averred that the present petitioner was riding a motorcycle bearing Reg.No.PY-01-N-4550 TVS Susuki and hit his paternal uncle. When there is a glaring difference in registration number of the vehicle, the accused cannot be charged for the alleged offences punishable under Sections 304(A) IPC and Section 187 of Motor Vehicles Act.

4. His further contention is that the though the occurrence took place on 06.04.2014, the learned Judicial Magistrate No.2, Padmanabhapuram, Kanyakumari District, took cognizance of the offence only on 28.05.2019 i.e., after a lapse of 5 years. He relied on the decision of the Division Bench of this Court in **Kathamuthu Vs. Balammal** reported in **1987 CrL LJ 360** and would contend that as per the limitation prescribed under Section 468(1)(c) of Cr.P.C., the learned Judicial Magistrate has no power for taking cognizance of the offence beyond the period of limitation.



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5. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Crl.Side) appearing for the respondent would contend that there are two eye witnesses in the present case and the defacto complainant, who lodged a complaint with the police had wrongly mentioned the registration number of the vehicle which hit his paternal uncle. According to him, the defacto complainant was not the eye witness to the occurrence and therefore, he had given a wrong registration number based on an information given by his Advocate, which after investigation, came to light that the present petitioner committed the offences under Sections 304(A) IPC and Section 187 of Motor Vehicles Act.

6. It is also his further submission that in the instant case, the final report was filed by the police within 1 year from the date of the occurrence i.e., 25.01.2015 and therefore, the final report was not filed beyond the period of limitation.

7. In this case, final report was filed on 25.01.2015 and the date of occurrence was 06.04.2014. Hence, it is filed within the period of limitation. The delay in taking cognizance of final report cannot be a ground to quash the final report. The eye witness account *prima facie*



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shows that the petitioner who was riding his two-wheeler bearing Reg.No.TN-75-K-4925 hit the deceased and it is the specific case of the prosecution is that the complainant was not an eye witness to the occurrence. A perusal of the complaint also shows that the complainant had nowhere stated that he witnessed the occurrence.

8. In the circumstances, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is dismissed.

08.03.2024

Index : Yes/ No
Internet : Yes/No
NCC : Yes / No
dss



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R.HEMALATHA, J.

dss

To

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

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