

CrI.R.C.(MD) No.608 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 08.04.2025

Delivered on : 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CrI.R.C.(MD)No.608 of 2024

A.Ravichandran

... Petitioner

Vs.

1.K.Ilayaraja

2.State rep.by the Sub-Inspector of Police,
Nadukkavery Police Station,
Nadukkavery, Thanjavur District.

... Respondents

Prayer : This Criminal Revision has been filed under Section 397 & 401 of Cr.P.C, to call for the records and set aside the order passed by the learned Judicial Magistrate, Thiruvaiyaru in CrI.M.P.No.1139 of 2024, dated 10.05.2024 as illegal and to direct the second respondent police to register a case.

For Petitioner : Ms.A.Zubaitha Banu

For Respondents : Mrs.M.Aasha,
Government Advocate (Criminal Side) for R2.

: No Appearance, for R1.



CrI.R.C.(MD) No.608 of 2024

ORDER

WEB COPY

The Criminal Revision is directed against the order passed in CrI.M.P.No.1139 of 2024, dated 10.05.2024 on the file of the learned Judicial Magistrate, Thiruvaiyaru, dismissing the petition filed under Section 156(3) of Cr.P.C.

2.The case of the petitioner/defacto complainant is that on 29.02.2024 at about 08.15 pm, the defacto complainant's son Ganeshpathi was returning in his Yamaha two wheeler bearing Reg.No.TN-49-BS-3544 with his friend Abishek as pillion rider to his home in Veenartrangarai Allur Road opposite to the house of the teacher Chinnaiya, the first respondent had driven the tractor with trailer in a rash and negligent manner with single head light and without any reflector badges in the trailer; that the said Ganeshpathi unable to see the double tyre attached with trailer and since the tractor was driven without giving any space for the two wheeler to proceed, he diverted his vehicle towards the left side of the road and at that time, the double tyre attached to the trailer dashed against the two wheeler and as a result of which, both of them were thrown out and sustained serious and grievous injuries; that the first accused without stopping the vehicle had proceeded further; that the nearby villagers had rescued both the injured and the pillion rider Abishek



Crl.R.C.(MD) No.608 of 2024

contacted ambulance through cell phone 108 and since there was a delay, their friends had taken the injured Ganeshpathi to Vinothagan Hospital, Thanjavur; that the Nadukkavery Police, after receiving information came to the hospital and recorded the statement of the Ganeshpathi on 01.03.2024; that the Sub-Inspector Sasirekha, without registering the case on the basis of the statement recorded from the defacto complainant's son, registered a case on the basis of the complaint received from the tractor driver in Crime No.125 of 2024 of the offence on 03.03.2024; that some other tractor was produced before the police and not the tractor and trailer, which caused the accident; that the complaint sent to the Deputy Superintendent of Police in person and also through post that the accident was occurred only due to the rash and negligent of the tractor driver, but the second respondent police has foisted a false case against the defacto complainant's son and that since there was no action on the basis of the complainant lodged, he was constrained to file a petition under Section 156(3) of Cr.P.C., before the jurisdictional Court for registration of the case and for investigation.

3.The learned Judicial Magistrate, taking the petition filed under Section 156(3) Cr.P.C., on file in Cr.M.P.No.1139 of 2024, upon perusing the petition and on hearing the petitioner's side, has passed the impugned order dated 10.05.2024 by holding that FIR was already registered for the accident



Crl.R.C.(MD) No.608 of 2024

occurred and investigation was pending, dismissed the petition. Aggrieved by the dismissal order, the present revision came to be filed.

4. It is not in dispute that on the basis of the complaint given by the first respondent Ilayaraja, FIR came to be registered in Crime No.125 of 2024 on 03.03.2024 against Ganeshpathi, son of the defacto complainant for the alleged offence under Sections 279 and 337 of IPC and that the investigation is pending on the file of the second respondent police.

5.The first respondent in his complaint has alleged that while he was proceeding in his tractor, the first respondent had driven his Yamaha two wheeler in a rash and negligent manner and dashed against the right side tyre of the tractor and caused the accident. The first respondent has further alleged that since he was forced to apply sudden brake, he sustained injury on his head and was forced to have four stitches and while he was taking treatment at Thanjavur Medical College Hospital, Nadukkavery Police has come and recorded his statement.

6.As rightly contended by the learned Government Advocate (Criminal Side), on the basis of the statement recorded from the first respondent at Thanjavur Medical College Hospital, the present FIR came to be registered.



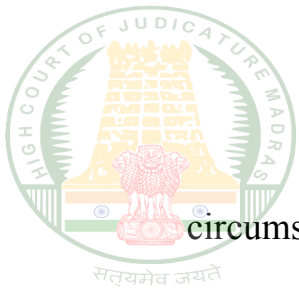
Crl.R.C.(MD) No.608 of 2024

As already pointed out, according to the defacto complainant's son, the first respondent alone had driven the tractor in a rash and negligent manner without having sufficient lights and caused the accident. It is the specific case of the defacto complainant that while his son was taking treatment at Vinothagan Hospital Thanjavur, Nadukkavery Police has come to the hospital and recorded the statement from his son. The second respondent has not disputed the said factum.

7. It is pertinent to note that the second respondent police, after recording the statement from both the parties, has chosen to register FIR only on the basis of the complaint given by the first respondent.

8. The learned Government Advocate (Criminal Side) would submit that for the accident occurred on the night of 29.02.2024, FIR has already been registered and hence, the question of registering the second FIR for the same accident does not arise.

9. At this juncture, it is necessary to refer the recent judgment of Hon'ble Supreme Court in the case of ***State Of Rajasthan vs Surendra Singh Rathore*** reported in ***2025 Livelaw SC 227***, wherein the Hon'ble Apex Court has held that registration of second FIR is permissible in certain



circumstances and elicited the said circumstances and the same are extracted

hereunder :

“1. When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

2. When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

3. When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

4. When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

5. Where the incident is separate; offences are similar or different.”

10. In the present case, the de facto complainant has filed a counter-complaint with a different version of the accident than the one given by the first respondent. It is the duty of the second respondent police to investigate both versions, determine the actual cause of the accident, and file a final report accordingly. Given the differing accounts, a thorough investigation is necessary to ascertain the truth.

11. Considering the above discussion and the legal position, the contention that a second FIR cannot be registered, is unsustainable. As rightly



Crl.R.C.(MD) No.608 of 2024

contended by the learned counsel for the petitioner, the learned Judicial Magistrate has also proceeded in the same direction and dismissed the petition. Hence, the impugned order dismissing the petition filed under Section 156(3) of Cr.P.C., is liable to be set aside.

12.In the result, the Criminal Revision Case is allowed and the impugned order, dated 10.05.2024 in Crl.M.P.No.1139 of 2024 on the file of the learned Judicial Magistrate, Thiruvaiyaru, is set aside. The learned Judicial Magistrate, Thiruvaiyaru, is directed to forward the petition filed under Section 156(3) of Cr.P.C., to the second respondent police, who shall register a case, investigate both FIRs and file a final report in accordance with law within three months from the date of receipt of the petition under Section 156(3) of Cr.P.C., from the concerned Court.

04.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das



Crl.R.C.(MD) No.608 of 2024

K.MURALI SHANKAR, J.

WEB COPY

DAS

To

- 1.The Judicial Magistrate, Thiruvaiyaru.
- 2.The Sub-Inspector of Police,
Nadukkavery Police Station,
Nadukkavery, Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

Pre-delivery order made in
Crl.R.C.(MD)No.608 of 2024

04.06.2025