

**Order on IA No.V filed under Order 16 Rule 1(2) of
Civil Procedure Code.**

1. The respondent No.2 filed interim application under Order 16 Rule 1(2) CPC praying to issue summons to Mahantesh B Patil CPI investigation officer Chincholi Circle police station to give evidence in the interest of justice and equity.

2. In the memo of facts it is stated that as per the complaint the complaint Unknown vehicle is dashed to the deceased and FIR is registered against unknown vehicle. After 71 days complainant has given

further statement and Police have filed the charge sheet against lorry bearing No. AP 28 TB6064. The police have filed the charge sheet against lorry bearing No. AP 28 TB6064 with out any valid reasons and it is also not mentioned how the vehicle was traced and who has seen the vehicle number. Hence the respondent sought for summoning the Mahantesh B Patil CPI investigation officer Chincholi Circle police station Hence the respondent prayed to allow the interim applications.

3. Learned counsel for the petitioner has filed objections contending that application is not maintainable as after detail investigation and taking further statement of witness and statement of the owner the police have filed the charge sheet. Thus he sought for dismissal of the application.

4. Heard and perused the materials on record.

5. **On the basis of materials on record, the following points arise for consideration:**

1. Whether the respondent No.2 has made out reasonable grounds to allow the application?

2. What Order?

6. **My Answers to the above points are as under:**

1. Point No:1- In affirmative

2. Point No:2- As for final Order for following reasons.

: REASONS :

7. The petitioner has filed this petition seeking compensation for the injuries caused to him in the accident. The specific contention of the respondent No.2 is that as per the complaint the complaint Unknown vehicle is dashed to the deceased and FIR is registered against unknown vehicle. After 71 days complainant has given further statement and Police have filed the charge sheet against lorry bearing No. AP 28 TB6064. The police have filed the charge sheet against lorry bearing No. AP 28 TB6064 with out any valid reasons and it is also not mentioned how the vehicle was traced and who has seen the vehicle number. In the charge sheet filed by the petitioner there is no delay of 71 days in further statement of complainant. On perusal of entire materials on record, it shows that it is necessary to give opportunity to the respondent No.2 to adduce his additional evidence in support of his defense.

Therefore in the interest of justice and equity the interim application is necessary to be allowed. Thus I answer point No1 in the affirmative.

8. In view of findings on point No.1, I proceed to pass the following:

: ORDER :

The interim application filed by the respondent No.2 under Order 16 Rule 1(2) is hereby allowed.

Issue witness summons to Mahantesh B Patil CPI investigation officer Chincholi Circle police station to give evidence.

Call on:24-11-2023.

Senior Civil Judge & JMFC.,

Chincholi.