

Crl.R.C.(MD)No.1286 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.03.2025

Pronounced on : 03.06.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1286 of 2024

Jeyasingh

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Kurangani Police Station,
Theni District.
(Crime No.18 of 2018)

... Respondent

Prayer : This Criminal Revision Case filed under Sections 438 r/w 442 B.N.S.S., to set aside the order of dismissal made in M.P.No.1 of 2024 in S.C.No.70 of 2019 on the file of the learned Additional District and Sessions Judge, Theni dated 28.10.2024 allow the revision petition.

For Petitioner : Mr.S.Chellapandian, Senior Counsel
for Mr.C.Ramesh

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)



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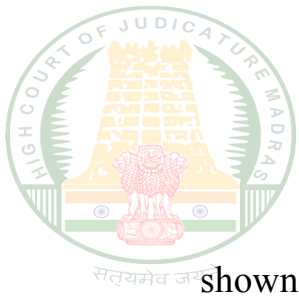
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ORDER

The Criminal Revision is directed against the order passed in M.P.No.1 of 2024 in S.C.No.70 of 2019 dated 28.10.2024 on the file of the Additional District Court (FTC), Theni, dismissing the petition for discharge filed under Section 227 of the Code of Criminal Procedure.

2. The petitioner is the first accused facing the sessions case in S.C.No.70 of 2019 for the offences under Sections 304(2) and 326 IPC on the file of the Additional District Court (FTC), Theni.

3. On the basis of the complaint lodged by one Prabhu now the second accused, FIR came to be registered in Crime No.18 of 2018 under Section 174 Cr.P.C. as accidental fire. After initial investigation, the case under Section 174 Cr.P.C. (accidental fire) was altered into Sections 336, 337, 338 and 304(2) IPC and Section 21(d) of Tamilnadu Forest Act, 1882 against 3 persons, namely, Peter Van Geit, Prabhu and Arunprabhakar. After completing the investigation, the respondent police laid the final report against 3 persons adding the petitioner as first accused and two other named in the alteration report Prabhu and Peter Van Geit and also

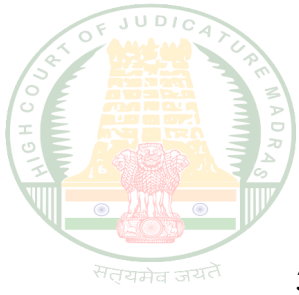


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shown four other persons as accused but since they were reported dead, added as charge abated. After committal to the Principal Sessions Court, Theni, the same was taken on file in S.C.No.70 of 2019 and the case was made over to the Additional District Court (FTC), Theni and is pending on the file of the said Court. When the sessions case was pending for framing of charges, the petitioner/first accused invoking Section 227 Cr.P.C. filed the petition seeking discharge from the above case and the same was taken on file in M.P.No.1 of 2024. The respondent police filed a counter raising objections. The learned Additional District Judge has passed a cryptic order dated 28.10.2024 dismissing the discharge petition. Aggrieved by the order of dismissal, the present revision came to be filed.

4. The case of the prosecution is that on 10.03.2018, two trekking teams - one from Chennai with 27 members and another from Erode with 11 members - ventured into Kurangani. After staying at the Kolukkumalai tea estate, they allegedly entered a restricted area while returning on 11.03.2018, where they were caught in a wildfire, resulting in 23 fatalities and several grievous injuries.



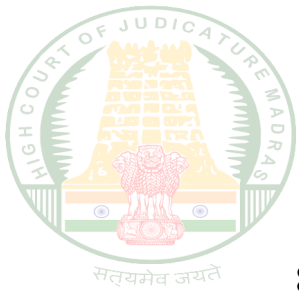
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5. It is not in dispute that the third accused Peter Van Geit filed a petition to quash the case in S.C.No.70 of 2019 invoking Section 482 Cr.P.C. before this Court and this Court in Crl.O.P.(MD)No.3591 of 2019 vide order dated 30.08.2022 dismissed the said petition and that the third accused preferred an appeal by special leave petition before the Hon'ble Supreme Court in Crl.A.No.369 of 2024 and the Hon'ble Supreme Court vide order dated 23.01.2024, by setting aside the order of this Court dated 30.08.2022, quashed the proceedings in S.C.No.70 of 2019 as against the third accused.

6. The learned Senior Counsel appearing for the petitioner would mainly rely on the order of the Hon'ble Supreme Court, wherein, the proceedings as against the third accused came to be quashed and argued that the very same reasoning and decision are very much applicable to the case of the petitioner also and that therefore the petitioner is also entitled to be discharged from the above case.

7. It is pertinent to mention that the prosecution has raised charges against the third accused for the offences under Sections 338 and 304(A) IPC.



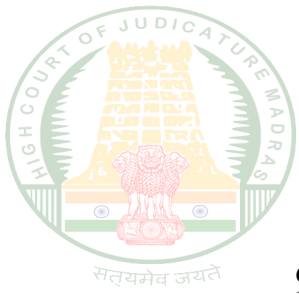
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8. No doubt, as rightly pointed out by the learned Senior Counsel appearing for the petitioner, the Hon'ble Apex Court, in its order, has observed that some persons who were part of the trekking expedition died owing to a forest fire which is an instance of vis major. But at the same time, it is also necessary to refer the other reasons assigned by the Hon'ble Supreme Court for quashing the case against the third accused hereunder for better appreciation;

“No negligence could have been attributed to the appellant herein who only facilitated the organization of the trekking expedition. As already noted, the organizers as well as the appellant herein and even the members of the trekking expedition were totally unaware of the forest fire as such. Accidentally they were engulfed in the forest fire and they died by sheer accident and not owing to any negligence or any criminal intent attributable to the appellant herein. The appellant herein had no role whatsoever in causing the death of the trekkers who died due to a forest fire which is a natural cause.

On that short ground alone, we find that the invocation of Sections 304 A and 338 IPC as against the appellant herein was wholly unwarranted.”

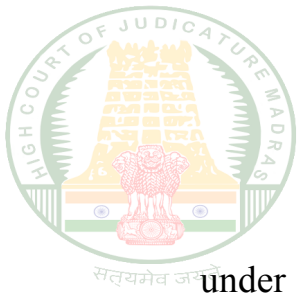


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9. As aptly contended by the learned Government Advocate (Criminal Side), the Hon'ble Apex Court's decision to quash the case against the third accused was specific to the lack of negligence attributed to him under Sections 338 and 304(A) IPC. This ruling does not imply that the entire case should be quashed due to the incident being an instance of vis major.

10. Moreover, it is pertinent to note that the third accused has invoked the jurisdiction under Section 482 Cr.P.C., whereas, the petitioner has only invoked Section 227 Cr.P.C. claiming discharge. In criminal jurisprudence, quashing and discharge are distinct legal action and the scope and nature of the enquiry required for quashing as well as discharging are entirely different. Section 482 Cr.P.C. grants the High Court inherent power to prevent misuse of the legal process or to secure the ends of justice, whereas, Section 227 Cr.P.C. allows a Court to discharge an accused if there are no sufficient grounds to proceed with the trial. To put it in short, Section 482 Cr.P.C. is about preventing abuse of process and securing the ends of justice, but Section 227 Cr.P.C. is about determining the sufficiency of evidence for a trial. In essence, quashing



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under Section 482 Cr.P.C. addresses the initiation of proceedings, while discharge under Section 227 Cr.P.C. addresses the sufficiency of evidence for proceeding with a trial.

11. As aptly argued by the learned Government Advocate (Criminal Side), the Supreme Court's decision to quash the case against the third accused does not automatically entitle the petitioner to discharge. Notably, the prosecution has framed serious charges under Sections 304(2) and 326 IPC against the petitioner, which distinguishes the petitioner's case.

12. The petitioner, as the Forest Ranger for Kottagudi forest range with additional charge for Munthal Division, had specific responsibility for the area where trekking was permitted. In contrast, the second accused operates 'Tour De India Holiday,' a private tourist agency, while the third accused, a Belgian citizen on a tourist visa, runs the Chennai Trekking Club.

13. The case of the prosecution is that the accused 2 and 3 had organized for trekking at Kurangani with a team of 27 members, who have



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come from Chennai and the deceased accused Nisha Tamil Oli, Nivya Prakoorthi, Divya and Arunprabhakar were the co-ordinators for the said team. It is the further case of the prosecution that another team from Erode has come under the leadership of the second accused, which came to be organized by one Tamilselvan.

14. The prosecution's case is that the petitioner specifically permitted the trekking team to proceed and arranged for Ranjith, a watcher, to guide them. Ranjith accompanied the team to Kolukkumalai, and it was during their return that they encountered the forest fire.

15. As rightly pointed out by the learned Government Advocate (Criminal Side), witness Tamilselvan, in his statement under Section 161(3) Cr.P.C., would say that the petitioner, who was available at the check post, had directed the guide Ranjith to accompany the Erode team. It is pertinent to note that the said Ranjith, in his subsequent statement, would say that the petitioner alone directed him to accompany the Erode team and in pursuance of the said direction, he had taken the said team to Kolukkumalai and stayed there and thereafter returned on 11.03.2018.



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16. Notably, according to the the prosecution, permitted trekking route was from Kurangani to Top Station, restricted to between 6:00 a.m. and 6:00 p.m. via an approved route. However, both teams deviated from this, trekking in restricted areas and staying overnight at Kolukkumalai without permission. The petitioner allegedly sent Ranjith to accompany the team, who guided them to Kolukkumalai, allowed them to stay overnight, and later took them via an unauthorized route. During their return, while having lunch near Othamaram, they encountered the spreading forest fire, prompting Ranjith to take an alternate route.

17. Moreover, as rightly contended by the learned Government Advocate (Criminal Side), some of the witnesses would say that trekking fees came to be credited in the personal account of the petitioner and witness Tamilselvan has even furnished the account number of the petitioner.

18. As aptly argued by the learned Government Advocate (Criminal Side), even if the petitioner permitted trekking only during the day, the fact that both teams did not return as expected raises questions about the



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petitioner's follow-up actions. Given the known risk of wildfires between January and May, it is unclear whether the petitioner adequately warned the teams about adhering to the permitted route and avoiding restricted areas.

19. Considering the statements under Section 161(3) Cr.P.C. recorded from witnesses Tamilselvan, Ranjith, Jeyaram and Ramar and also the statements of Rammohan and Johny Navakumar, it is clear that they have stated about the role played by the petitioner as well as his watcher Ranjith.

20. As rightly contended by the learned Government Advocate (Criminal Side), considering the above statements and taking note of the petitioner's role, the deployment of witness Ranjith to accompany the Erode team and the receipt of trekking fees in his personal account, this Court has no hesitation to hold that there are sufficient grounds exist to proceed against the petitioner. No doubt, the learned Additional District Judge, without considering the grounds of discharge and the objections raised by the prosecution in a proper perspective, has passed a cryptic



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order, but that by itself is not a ground to set aside the said order. As already pointed out, since there are sufficient materials available, the question of discharging the petitioner at this point of time does not arise at all. Hence, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

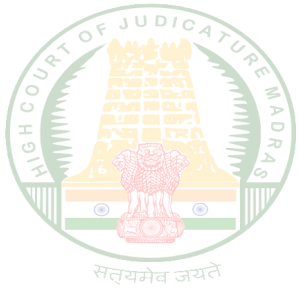
21. In the result, this Criminal Revision Case stands dismissed. Since the sessions case in S.C.No.70 of 2019 is pending from 2019 onwards, the learned Additional District Judge (FTC), Theni is directed to proceed with the trial and dispose of the same within a period of four months from the date of receipt of a copy of this order. No costs.

03.06.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To
1.The Additional District Judge (FTC),
Theni.
2.The Inspector of Police,
Kurangani Police Station,
Theni District.
3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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K.MURALI SHANKAR,J.

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**Pre-Delivery Order made in
Crl.R.C.(MD)No.1286 of 2024**

Dated : 03.06.2025