

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP No.23727 of 2015

1.Velmurugan
2.Rajeswara Rao
3.Amarnath
4.Prasath Madhilesh

.. Petitioners

Vs

1.The State rep by
Inspector of Police
M.M.Colony Police Station
Madhavaram, Chennai

2. R.Kalaimani

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.333 of 2015 pending before the learned Judicial Magistrate, Thiruvottuyur, Chennai and quash the same.

For Petitioner : Mr.M.Govindaraju

For R1 : Mr.C.Emalias,
Addl.Public Prosecutor

For R2 : Mr.Ar.M.Arunachalam

ORDER

This petition has been filed to call for the records in C.C.No.333 of 2015 pending before the learned Judicial Magistrate, Thiruvottriyur, Chennai and quash the same.

2. Heard the learned counsel for the petitioners, learned Additional Public Prosecutor appearing for the State and the learned counsel for the second respondent.

3. It is the case of the prosecution that deceased Marimuthu was working as a welder in M/s Sai Tech Fabrication owned by S.Velmurugan [A1]. M/s Sai Tech Fabrication had taken up contract job with Rajeswara Rao [A2] in connection with fabrication and erection activities of M/s Bridge & Roof India Ltd. On 16.05.2015 when deceased Marimuthu was working in the site, he died of electrocution. On the complaint lodged by R.Kalaimani, the father of the deceased, the respondent police registered a case in Cr.No.957 of 2015 and after completing the investigation, a Final Report has been filed in C.C.No.333 of 2015

before the learned Judicial Magistrate, Thiruvottriyur for an offence under Section 304A IPC against (1) Velmurugan, (2) Rajeswara Rao, (3) Amarnath and (4) Prasath Madhilesh, challenging which the accused are before this Court.

4. Learned counsel for the accused submitted that the prosecution is an abuse of process of law, inasmuch as the petitioners/accused cannot be attributed with any mens rea as required under Section 304A IPC.

5. On a careful reading of the Final Report, this Court finds that while Marimuthu was engaged in welding activities, he suffered electrocution. It is nobody's case that the petitioners/accused herein were responsible directly for the accident. In any event, Mr. Kalaimani, father of the deceased Marimuthu, who is the defacto complainant herein, is present before this Court and he has filed an affidavit, wherein it is stated as follows in paragraphs 6 to 9:

"6. Accordingly in the course of discussion with my family, the petitioners herein agreed to give compensation, it was decided that settlement amount of Rs.5,50,000/- (Rupees five lakhs fifty thousand only) shall be paid by them.

7. Further in this regard an MOU has been duly signed between us and the same has been notarized, wherein I had received a sum of Rs.2,50,000/- and had agreed to receive the balance settlement amount to the tune of Rs.3,00,000/- on the date of this petition being heard before this Hon'ble Court.

8. I submit that an amicable settlement arrived between the petitioners and me. Now I am not intend to proceed with the case because of compromise made between the petitioners and myself. Hence I am not intending to proceed with the case against him.

9. I submit that the petitioners are agreed to give a sum of Rs.5,50,000/- as full and final compensation to my family and earlier I received Rs.2,50,000/- and today I received Rs.3,00,000/- vide Demand Draft No.121714 dt.03.10.2015 payable at SBI, Madras Refineries Ltd Branch, Manali, Chennai. In view of the amicable settlement I withdraw my complaint against the petitioners."

6. Today a Demand Draft for Rs.3,00,000/- dated 03.10.2015 drawn on State Bank of India in favour of Kalaimani, the defacto complainant has been handed over to him.

Under such circumstances, this Court is of the view that this is a fit case to quash the prosecution and accordingly, this petition is allowed and the prosecution against all the petitioners in C.C.No.333 of 2015 on the file of the learned Judicial Magistrate, Thiruvotriyur, Chennai is hereby quashed.

Gms

Sd/-
Assistant Registrar (CO)

/True Copy/

To

Sub-Assistant Registrar

1. The Inspector of Police
M.M.Colony Police Station
Madhavaram, Chennai.
2. The Judicial Magistrate,
Thiruvottuyur, Chennai
3. The Public Prosecutor,
High Court, Madras.
4. The Chief Judicial Magistrate,
Thiruvallur

+1 C.C. To MR.Govindaraju, Advocate in SR.NO.54561

Cr1.OP No.23727 of 2015

NM(CO)
sd : 28/10/2015

सत्यमेव जयते

WEB COPY