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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

CRL.OP.(MD)No.12385 of 2015

N.Chandran

... Petitioner/Sole accused

Vs.

1.The Inspector of Police,
Omachikulam Police Station,
Madurai - 625 014.

2.R.Latha
.. Respondents

Prayer: Petition filed under Section 482 of Criminal Procedure Code praying to call for the records in connection with Crime No.303 of 2015, dated 02.06.2015 of the respondent police, Omachikulam, Madurai and quash the same.

For Petitioner ...Mr.C.Masilamani

For R-1 ...Mr.K.Anbarasan,
Govt. Advocate(Crl. Side)

For R-2 ...Mr.S.Satheeshkumar

ORDER

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.303 of 2015 on the file of the respondent police, Omachikulam, Madurai.

2. The petitioner is the sole accused in Crime No.303 of 2015 on the file of the first respondent, for the alleged offence under Section 304 (A) of I.P.C. The complaint against the petitioner is that the deceased was working under the petitioner. The deceased was asked to remove the stagnated water from the pit. By mistake, the switch of the motor was put on, which resultantly the electricity passed to the deceased. The deceased was taken to the nearby hospital and thereafter to a better hospital. On thorough investigation, he was found dead.

3. When the matter is taken up for hearing, a joint compromise memo was filed by the petitioner and the second respondent being wife of the deceased. In that joint compromise memo, it has been stated that the matter has been settled between the parties. Both the parties have also present. Both the counsel submitted that the joint compromise memo may be accepted.

4. When a query was raised by this Court as to how the proceedings could be quashed, the learned counsel for the petitioner made reliance



upon the judgment of the Delhi High Court in the case **Baij Nath Thakur & Others vs. State (Crl.M.C.3463 of 2011)**, wherein it has been held as follows:

8. Learned App for State has referred the case of Hon'ble Supreme Court in Gian Singh Vs. State of Punjab & Anr. In SLP (Crl.) No.8989/2010 wherein the Division Bench of the Supreme Court has referred three earlier decisions viz, B.S.Joshi V. State of Haryana (2003) 4 SCC 675, Nikhil Merchant v. Central Bureau of Investigation and Anr.(2008) 9 SCC 677 and Manoj Sharma vs, State & Ors. (2008) 16 SCC 1 to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not.

9. Previously, I have taken the view on the basis of the judgment of the Division Bench of Mumbai High Court in Nari Motiram Hira vs. Avinash Balkrishnan & Anr. In Crl.W.P.No.995/2010 decided on 03.02.2011 whereby the Division Bench of Mumbai High Court has permitted for compounding of the offences under Section 452/324 of Indian Penal Code which were of 'non-compoundable' category as per Section 320 Cr.P.C and the FIR No.50/2010 registered at Amboli Police Station, Andheri dated 06.02.2010, was quashed. Therefore, I am of the opinion that unless and until the decisions in cases which have been referred above, are set aside or altered, the same decisions are the precedent and binding effect.

10. Since the petitioner Nos.4 & 5 (accused persons) have compensated the deceased families and injured person, therefore, in my opinion the substantial justice would be if the present petition is allowed.

11. Accordingly the petition is allowed and FIR No.321/2011, under Sections 288/337/338/304A IPC, P.S.Hauz Khas and other proceedings emanating therefrom are hereby quashed. "

5. Heard both sides and also perused the compromise memo. The appearance of the parties is recorded.

6. This Court has asked the second respondent as to whether she has received money, she answered in the affirmative. On a perusal of the complaint, it is seen that the allegation is relating to act of negligence. The deceased was already in the pit to remove the water from the pit. He was asked by the petitioner to use the motor. Thereafter, it was switched on. Further, from the complaint it is seen that the deceased was into the pit on his own and he was also asked to use the motor. It is also submitted that both the deceased and the petitioner are relatives.

7. Though the learned counsel appearing for the petitioner submitted that the petitioner was not present at the place of occurrence as he was taking treatment, this Court is not willing to go into the same.

8. However, this Court does not find any willful negligence involved in this case. Therefore, considering the facts of the case and taking note of the joint compromise memo filed by the parties duly attested by the counsel on both sides and after going through the available records, this Court is inclined to quash the proceedings pending against the



In the result, this Criminal Original Petition is allowed and the F.I.R in Crime No.303 of 2015 on the file of the respondent police, is hereby quashed.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
Omachikulam Police Station,
Madurai - 625 014.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S. C.Masilamani, Advocate in SR.No 36760

TS/21.07.2015/2P - 4C

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