

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1268 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order dated 10.04.2015 passed in CrI.M.P.No.63 of 2013 in S.C.No.220 of 2012 on the file of the Court of the Assistant Sessions Judge at Chodavaram, Visakhapatnam District, whereby the learned Judge dismissed the petition filed by the petitioner by invoking Section 227 of CrPC for discharging the petitioner.

Heard and perused the material available on record.

It is alleged that the petitioner/A.3 carried on blasting operations with the blasting material supplied by A.1 through A.2 without taking any safety measures, resulting in death of the deceased and severe injuries to the other person. Hence, complaint is lodged against the petitioner/A.3 and two other persons for the offences under Sections 304(A), 338 IPC and Sections 3 and 6 of the Explosives Substances Act

On perusal of the impugned order, this Court is of the view that the learned trial Judge without giving any reasons, dismissed the petition filed by the petitioner, and the relevant observations are extracted as under (paragraph 5).

On perusal of the record, it shows that the above sessions case is posted for frame of charges and at this stage, the petitioner (A3) herein filed this application and requests the Court to discharge him in the above case. The contents of record filed by the respondent/complainant by way of charge sheet clearly discloses that, there is prima facie case against him and others, further, one of the labourers died during the blasting operations in the quarry. Unless and until full fledged trial took place it is difficult to come to the conclusion that whether any case is made out by the prosecution against the petitioner (A3) or not. Considering circumstance of the case, I do not find any force in the contention raised by the petitioner (A3) herein. Hence, the petition is dismissed.

The learned trial Judge, except observing that there is a prima

facie case against the petitioner and others, has not given any valid and convincing reasons for dismissal of the petition filed by the petitioner for discharge of the petitioner. Hence, the order impugned is hereby set aside.

The petitioner is directed to file fresh petition before the trial Court for discharge of the petitioner and on filing such petition, the trial Court is directed to pass appropriate orders after perusing the material and hearing the arguments of both the parties.

With the above directions, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

15.07.2015

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