

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.14407 of 2016 & Crl.M.P. Nos.7253 and 7910 of 2016
Crl.O.P. No.15723 of 2016 and Crl.M.P. No.7717 of 2016

Jose Punnoose ..Petitioner in Crl.O.P.No.14407/2016/
Accused 1

D. Sakthivel ..Petitioner in Crl.O.P. No.15723/2016/
Accused 2

vs.

1 The State represented by
the Inspector of Police
Somangalam Police Station
Sriperumbudur Taluk
Kanchipuram District
Ref.Crime No.171/2016 dated 12.05.2016

2 P. Settu ..Respondents in Crl.O.P.
No.14407/2016/ Compalainant

1 The State represented by
the Inspector of Police
Somangalam Police Station
Sriperumbudur Taluk
Kanchipuram District
Ref.Crime No.171/2016 dated 12.05.2016

2 P. Settu

3 Rajiya Khautun

4 Lokesh

5 Rajesh Marandi

6 M. Dinesh

7 D. Kaviarasan

8 G. Kesavan

9 P. Ashok Kumar

10 R. Gunasekaran

11 V. Deenadhayalan

Respondents in Crl.O.P.No.15723 of
2016

Prayer in both the CrI. O.Ps.:

Criminal Original Petitions filed under Section 482, Cr.P.C. to call for the records and quash the investigation pending in Crime No.171/2016 on the file of the first respondent police registered for offences under Section 304 (ii) and 337 IPC as against the petitioner.

For petitioners Mr. A. Ramesh, Sr. Counsel
in both the petitions for Mr. C. Arun Kumar

For R1 in Mr. C. Emalias
both the petitions Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions are filed seeking to call for the records and quash the investigation pending in Crime No.171/2016 on the file of the first respondent police, registered for offences under Section 304(ii) and 337 IPC as against the petitioners.

2 Heard both sides.

3 An unfortunate accident took place in a Theme Park on 12.05.2016 in which Manikandan and Sahabuddin, employees of the Theme Park lost their life and 8 other employees suffered injuries in connection with which, on the complaint of Settu, the father of Manikandan, the first respondent police registered a case in Crime No.171/2016 under Section 337 and 304(2) IPC challenging which Jose Punnose (petitioner in CrI.O.P. No.14407 of 2016) and D. Sakthivel (petitioner in CrI.O.P. No.15723 of 2016) who are the Joint Managing Director and the Manager - H.R. respectively, of the Theme Park, are before this Court.

4 Immediately after the accident, both the petitioners were arrested and were remanded to custody and after a month of incarceration, they have now been released on bail.

5 Manikandan was employed as a Welder in the Theme Park and Sahabudeen also was an employee of the Theme Park. The Theme Park had designed and assembled a Ferries Wheel (a joy ride) in the land adjacent to the Theme Park. When Manikandan, Sahabudeen and 8 others were working on it for a test ride, it crashed, which resulted in the death of Manikandan and Shahabudeen and injuries to eight others.

6 In the considered opinion of this Court, the FIR does not disclose as to how the petitioners are responsible for this accident. Even according to the FIR, the Ferries Wheel was being subjected to test run by Manikandan, Sahabudeen and other workers at a place outside the Theme Park and unfortunately, the machine crashed. As such, the FIR does not disclose commission of a cognizable offence and at the

most, it is an industrial accident for which the Theme Park will be liable under the Workmen's Compensation Act.

7 However, Settu, father of the deceased Manikandan and Rajiya Khatun, mother of the deceased Sahabuddin and the injured employees were present before this Court on 27.07.2016 and they were referred to the Tamil Nadu Mediation and Conciliation Centre. In the Mediation and Conciliation Centre, the parties have arrived at an amicable settlement under which the family of the two deceased employees viz., Manikandan and Sahabudeen, were given Rs.15,05,000/- each and the injured employees were given Rs.2,50,000/- each, which amounts are inclusive of the amount paid before the Deputy Labour Commissioner-II, Chennai under the Workmen's Compensation Act.

8 Though payment of compensation cannot be a reason to quash the prosecution, yet, this Court finds that in the present case, the very prosecution against the petitioners for an accident of this nature, is an abuse of process of law. Accordingly, the FIR in Crime No.171 of 2016 is quashed.

In the result, both the Criminal Original Petitions stand allowed. Connected Crl.M.Ps. are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1 The Inspector of Police
Somangalam Police Station
Sriperumbudur Taluk
Kanchipuram District
Ref.Crime No.171/2016 dated 12.05.2016

2 The Public Prosecutor
High Court, Madras

+3 cc's to Mr.C.Arunkumar, advocate, sr.42980

sr(co)
krd 24/8

Crl.O.P. No.14407 of 2016
and
Crl.O.P. No.15723 of 2016