

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.24981 of 2016

K.Ganesh

... Petitioner

-Versus-

1. The Inspector of Police,
H-3, Tondiarpet Police Station,
Tondiarpet,
Chennai 600081.
[Crime No.363 of 2016]

2. K.Ramesh

... Respondents

Prayer:

This petition is filed under Section 482 Cr.P.C. praying to call for the entire records relating to the case in Crime No.363 of 2016 pending on the file of the 1st respondent - Inspector of Police, H-3, Tondiarpet Police Station, Tondiarpet, Chennai 600081 and to quash the said case.

For Petitioner : Mr.R.Rajasekaran

For Respondents : Mr.C.Emalias, APP for R1

सत्यमेव जयते

ORDER

This original petition has been filed seeking to quash the case in Crime No.363 of 2016 pending on the file of the 1st respondent-Inspector of Police, H-3, Tondiarpet Police Station, Tondiarpet, Chennai.

2. On the complaint lodged by the de facto complainant-Ramesh, the 1st respondent police have registered a case in Crime No.363 of 2016 on 07.05.2016 for offences under Section 304-A of IPC against K.Ganesh challenging which he is before

this court with the present petition.

3. On a reading of the FIR, it is seen that Manikandan, the son of the 2nd respondent Ramesh was employed in the Printing Press run by the petitioner Ganesh and that on 02.05.2016 at 03.30 p.m. while he was working in the press, he had sustained injuries and was immediately rushed to the hospital where he succumbed to injuries on 07.05.2016. Hence, the FIR.

4. Today, Tmt.R.Prema, Sub Inspector of Police, H-3 Police Station, Tondairpet, Chennai, is present in court. The petitioner Ganesh and the 2nd respondent - K.Ramesh, the father of the deceased Manikandan are also present and the 2nd respondent has also filed an affidavit before this court. The Sub Inspector of Police identified both the accused and the de facto complainant in court. In paragraph No.2 of the the affidavit, K.Ramesh stated as follows:-

"2. I state that I lodged a complaint before the first respondent that my son Manigandan (the deceased) met with an accident while he was working in the petitioner's Printing Press on 02.05.2016 at 03.00 p.m. and he died on 07.05.2016. All the treatments were taken out by the employer (petitioner herein). I filed an application before the Labour Commissioner in W.C.No.67 of 2016 and both the petitioner herein and myself executed a Memo of Compromise and received Rs.3 laksh from the petitioner as full and final settlement subject to a condition that I shall withdraw all proceedings against the petitioner including the criminal case. Upon the receipt of the amount of Rs.3 lakhs by way of DD (all the documents have been enclosed in the petitioner's Typed Set of Papers) the Labour Commissioner of Chennai closed the proceedings on 07.10.2016. Hence, I hereby submit that there is no objection by me to withdraw the prosecution against the petitioner registered by the first respondent in Crime No.363 of 2016.

I therefore pray that this Hon'ble Court maybe pleased to accept this supporting affidavit as part and parcel of the above quash petition in CrI.O.P.No.24981 of 2016 on the file of this Hon'ble Court and thus render justice."

When this court inquired Ramesh, the de facto complainant he told that he had already received a sum of Rs.3 Lakhs [Rupees Three Lakhs only] as compensation from the petitioner.

5. On a further reading of the FIR, it is seen that there is no material to show that the death of Manikandan had occurred on account of any rash or negligent act of Ganesh who is, after all, a owner of the printing press where the deceased was employed. It is merely an industrial accident for which the petitioner cannot criminally be held liable. Further, according to the de facto complainant after having amicably settled the matter between Ganesh, he had received compensation for the loss of life of his son.

6. Taking into consideration the facts and circumstances, in the considered opinion of this court, if the criminal prosecution is allowed to be continued further the same would only be a wasteful exercise and it would result in serious prejudice resulting in injustice to the accused.

7. In the result, the criminal original petition is allowed and the case in Crime No.363of 2016 pending on the file of the 1st respondent - Inspector of Police, H-3, Tondiarpet Police Station, Tondiarpet, Chennai 600081 is hereby quashed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Inspector of Police,
H-3, Tondiarpet Police Station,
Tondiarpet, Chennai 600081.

2.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.24981 of 2016

GMI (CO)
PSI (29/12/2016)