

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1356 OF 2007

JUDGMENT:

This Criminal Appeal is filed by the complainant-Union of India challenging the judgment of VIII Metropolitan Magistrate at Rajendranagar, R.R.District, dated 21.12.2006 in C.C.No.149 of 2005 whereby the learned Magistrate found the sole accused not guilty of the offences under Sections 72 C(1)(a) and 73 of the Mines Act, 1952 and acquitted him of the said charges.

The case of the prosecution is that the accused is the owner of the Vattinagulapalli Stone Mines and being carrying on the mining activities. On 2.10.2004 while carrying on mining activities, a fatal accident took place in which one M.Bheemaiah was killed. Deputy Director of Mines, who is the complainant, inspected the site of the accident, conducted an enquiry which revealed that while 50 shot holes were being charged with Ammonium Nitrate Fuel Oil explosives and electric detonators and simultaneously being conducted in series by two unqualified persons in the bed of stone quarry on 2.10.2004, which was a cloudy day, lightening struck in the area and 18 holes got fired as a result of which, M.Bheemaiah received fatal injuries and died. The accused failed to appoint a qualified blaster and also failed to appoint a qualified manager for the control and supervision of the mines and thereby contravened the provisions of the Metalliferous Mines Regulations, 1961 and liable to be punished for the offences under Sections 72C(1)(a) and 73 of the Mines Act, 1952.

In order to bring home the guilt of the accused, the prosecution examined P.Ws.1 to 3 and marked Exs.P.1 to P.8. On behalf of defence, no oral or documentary evidence was adduced.

After analyzing the evidence brought on record, the trial Court found the accused not guilty of the offences with which he was charged and acquitted him of the said charges.

Heard the learned Assistant Solicitor General and learned counsel appearing for the accused and learned Additional Public Prosecutor. Perused the material on record.

P.W.1, who is the complainant deposed before the Court that on 4.10.2004 at about 5.00 p.m. he received an anonymous call regarding the fatal blasting accident occurred at the stone quarry of accused, in which one Bheemaiah died and on receipt of said information, he directed one Narasaiah, the Inspector of Mines and Deputy Director of Mines for conducting enquiry and basing on his report, he lodged the complaint against the accused. P.W.2-Narasaiah, who conducted the enquiry and submitted report deposed that on 5.10.2004 he inspected the mining premises, observed the area where the blast took place on 2.10.2004, recorded the statement of injured person and others present on the site, which revealed that at the time of accident, deceased-Bheemaiah was making the connections to the already charged holes and that after connecting 18 holes, lightening struck in

the area and due to the consequent electricity, the 18 charged and connected holes exploded and said Bheemaiah was thrown up in the air due to the blasting and sustained injuries and died on the spot. He further deposed that his enquiry revealed that said Bheemaiah was not a qualified blaster. P.W.3, who is a Surveyor in the office of Deputy Director General of Mines deposed that on 16.10.2004 at about 11.00 a.m., he accompanied P.W.2 to the mining premises where the accident took place and he surveyed the place of accident and prepared the sketch of the scene. The learned trial judge after appreciating the said evidence of P.Ws.1 to 3, acquitted the accused of the charges.

The main submission of the learned Assistant Solicitor General is that the trial Court acquitted the accused in erroneous manner holding that the death of the deceased-Bheemaiah was not proved as a result of sustaining of injuries in the blasting. Furthermore when there is an admission by P.W.2 to the effect that the accused failed to appoint a qualified blaster or manager for the supervision of the mining activities, the trial Court ought to have convicted the accused.

The learned counsel appearing on behalf of accused-first respondent herein submitted that the complainant-P.W.1 has not produced or seized any document to show that the accused has not appointed any person, who is authorised to supervise the blasting work in the mining premises. Further the complainant failed to connect the death of the deceased-Bheemaiah in the mining premises to the effect that the said

death is caused due to the non-appointment of the supervisor, who is qualified to supervise the blasting operations.

The sole contention of the learned Assistant Solicitor General is that since P.W.2 deposed and found in his enquiry that an authorised/qualified person was not appointed in the mining of the accused, the trial Court ought to have convicted the accused. Merely because an admission is made by one of the witnesses, it is not enough to convict a person. It is the duty of the prosecution to prove with clinching material that the violation of any regulations by the accused caused the death of a person concerned in the mining so as to attract the offence under Sections 72 C(1)(a) and 73 of the Mines Act, 1952. Since no material pointing out the guilt of the accused is produced by the prosecution, this Court is of the view that the order of acquittal recorded by the trial Court need not be interfered with.

In the result, the Criminal Appeal is dismissed confirming the judgment of VIII Metropolitan Magistrate at Rajendranagar, R.R.District, dated 21.12.2006 in C.C.No.149 of 2005 in acquitting the accused the offence under Sections 72 C(1)(a) and 73 of the Mines Act, 1952.

Pending Miscellaneous petitions, if any, shall stand closed.

JUSTICE RAJA ELANGO

23.08.2016
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