

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION NO.688 OF 2012

ORDER:

This Criminal Petition under Section 482 of Cr.P.C. is filed to quash the proceedings in C.C.No.532 of 2010 on the file of Judicial First Class Magistrate, Kurnool for the offences under Sections 336, 337 and 304-A IPC.

The case of the prosecution is that A.1 to A.4 being the contractors and sub-contractors while executing the work of constructing bridge across the KC Canal on NH-7 near Kurnool have not followed the safety standard measures, as a result of which, five girders were collapsed on site and caused the death of deceased apart from causing injuries to three other workers. Hence the accused were charged with the above offences.

The petitioner herein is the Director of KMC Constructions Limited. In fact, the contract for construction of four lanes of NH-7 was awarded to Andhra Pradesh Expressway Limited ('APEL'), who in turn, awarded a division of work to KMC Constructions and the AEE Company was the sub-contractor to KMC Constructions. A.3 is the Director of AEE Company. The deceased is the employee of A.3 and was Supervising the construction work. On 30.4.2009 the deceased died due to the collapse of five girder beams into KC Canal.

Heard and perused the material available on record.

On a perusal of the entire charge sheet, this Court is of the view that to attract an offence under Sections 336, 337 and 304-A

IPC, there should be a direct nexus between the occurrence and the act of the person concerned. It is no-doubt true that there is vicarious liability upon the petitioner herein under the civil law. As far as the criminal law is concerned, the petitioner cannot be prosecuted for vicarious liability. Even it is not the case of the prosecution that by virtue of the acts of the petitioner herein the occurrence took place and the deceased died due to the collapse of the bridge constructed by the company of the petitioner, which was executed by the company of A.3. Since there is no prima facie evidence to connect the petitioner with the offence alleged, the impugned proceedings cannot be continued against him and are liable to be quashed.

In the result, the Criminal Petition is allowed and the proceedings in C.C.No.532 of 2010 pending on the file of Judicial First Class Magistrate, Kurnool are hereby quashed as against the petitioner herein.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

11th August, 2016

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