

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1449 of 2016**

- Denarayan Singh S/o Shri S.R. Nag Aged About 32 Years R/o Kailash Nagar, Dantewada, Police Station & Tahsil- Dantewada, Civil & Revenue District- Dantewada, Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Station House Officer Police Station- Dantewada, Civil & Revenue District- Dantewada, Chhattisgarh.

---- Respondent

For Petitioner
For State

Mr. P.M. Shriwas, Advocate
Mr. Ashok Swarnkar, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****03.01.2017**

1. The present Cr.M.P. under Section 482 of the Cr.P.C. has been filed seeking for quashment of the Criminal Case No. 303/2016 pending before the Chief Judicial Magistrate, Dantewada. In the said case the prosecution has initiated a case against the present Petitioner for the offence under Section 304(A) IPC.
2. The facts in brief as per the prosecution is that an F.I.R. was lodged at Police Station, Dantewada on 16.08.2016 in Crime No. 80/2016. In the said F.I.R. it has been informed that an accident took place on 07.07.2016 near the new Bus Stand, Dantewada where construction work was being undertaken for the erection of boundary wall. It is

alleged that the present Petitioner was the contractor who had engaged a labour namely Manish @ Mangal Mandavi for construction of the said boundary wall. It is further averred that during the course of the construction work the said labour Manish @ Mangal Mandavi came in contact with high tension electricity line which was going over the said block on account of which he got electrocuted and later succumbed to death. The matter after investigation has been put to trial for the offence under Section 304(A) IPC.

3. According to the Counsel for the Petitioner it is the case where the prosecution has failed to establish relationship between the present Petitioner and the deceased. It is the case where in fact the contract for construction was given to one M/s Balaji Construction and not to the present Petitioner. Therefore, he has been wrongly implicated in the said case. He further submits that it is the case where the present Petitioner was not either directly or indirectly or in any manner connected or was responsible for the accident that resulted in the death of Manish @ Mangal Mandavi. He further submits that the police ought to have first collected the entire material for a proper investigation so far as the accident is concerned and should have then reached to the conclusion as to who was responsible for the accident that took place and thus prayed for quashment of the entire criminal proceeding levelled against the present Petitioner.
4. Mr. Ashok Swarnakar however opposing the Petition submits that as per the prosecution case the labour was engaged by the present Petitioner who was a contractor. For the accidental death immediate

employer of the deceased is responsible as he has not taken appropriate precaution during the course of the construction for the safety of the employee. Therefore it cannot be said that the Petitioner has been falsely implicated in the present case and prayed for rejection of the present Petition.

5. Having considered the rival contention put forth by the Counsel for the Petitioner as well as the Counsel for the State, indisputably an accident took place on 07.07.2016 and as result of which the labour namely Manish @ Mangal Mandavi got electrocuted when he came in contact with high tension wire flowing over the said block where the construction work was going on and where the deceased was working. It is alleged that Petitioner was the contractor under whom the deceased was working.
6. So far as whether there was an employer employee relationship between the Petitioner and deceased is concerned, it is a matter of evidence. So far as the contention of the Petitioner that the Contractor in fact was one M/s Balaji Construction is also a matter of evidence which has to be thrashed out only after providing chance to lead evidence to the parties and this cannot be decided at the threshold. So far as the lodging of the complaint and investigation of the case is concerned, is based on prima facie material available with the Police in the F.I.R. and the subsequent investigation that has been carried out. With the available materials it can not be said that the present Petitioner has been wrongly prosecuted. So far as whether he was responsible for the accident or not is a matter of evidence which would be considered by the Court in course of trial

and not at this preliminary stage. Further at this stage it may not be proper to invoke powers conferred upon the Court under Section 482 Cr.P.C. by conducting a roving inquiry or a mini trial so as to reach to a conclusion whether there are sufficient material available against the Petitioner for initiating criminal prosecution or not. All that this Court has to see is whether prima facie some material are available or not for initiation of the case which the prosecution has shown. Thus, this Court does not find merits in the present Petition.

7. The present Petition being bereft of the merits deserves to be and is accordingly rejected.

**Sd/-
(P. Sam Koshy)
JUDGE**