

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Crl.O.P No.2983 of 2011
and
M.P.No.1 of 2011

R.P.P.Selvam

... Petitioner

vs.

1. State rep. by
Sub-Inspector of Police,
N-1, Royapuram Police Station,
Washermenpet, Chennai.
Crime No.961 of 2010.

2.Ashwin Naidu

... Respondents

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records connected with Crime No.961 of 2010, on the file of N-1, Royapuram Police Station, Washermenpet, Chennai, dated 07.10.2010, and quash the same.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.P.Govindarajan (for R1)
Additional Public Prosecutor

JUDGMENT

The petitioner is before this Court invoking the inherent power of this Court under Section 482 of Cr.P.C seeking to quash the FIR in Crime No.961 of 2010 on the file of the 1st respondent police registered under Section 288 and 337 of IPC on the basis of a complaint given by the 2nd respondent namely Ashwin Naidu.

2.The brief facts of the case run as follows that the 2nd respondent as a worker was doing plastering work in Stanley Medical College Hospital, Chennai under the petitioner's construction company namely R.P.P.Selvam Infrastructure Pvt. Ltd. The 2nd accused namely Chinraj was Supervisor in charge responsible for the said site work.

3.Being so, on 07.12.2010, when the 2nd respondent was entrusted by 2nd accused to plaster the sun shade in the 1st floor, it was informed by the 2nd respondent/defacto complainant that the Causirana Stick proposed to put up as ladder is not a fit one to put up a temporary ladder to do plaster work. Despite that the said Chinraj instructed the 2nd respondent to go ahead with work assuring that nothing will happen.

4.Whereas, in the midst of work the Causirana stick broke and the 2nd respondent fell down and sustained injuries out of it, therefore the above complaint came to be lodged by the 2nd respondent and was registered under Sections 288 and 337 of Indian Penal Code.

5.I heard Mr.G.Karthikeyan, learned counsel appearing for the petitioner and Mr.P.Govindarajan, learned Additional Public Prosecutor appearing for the 1st respondent.

6.The said FIR is challenged in this petition on the ground that there is no over act as against the petitioner, excepting a line that the incident took place as the petitioner herein had not supplied materials. Further, it is the case of the petitioner that the complaint does not point out to any offence against the petitioner herein. Moreover even if the entire averment read as a whole, the FIR does not make out any offence as against the petitioner.

7.Before going into the merits of the case it would be therefore relevant to look into the offences defined under Sections 288 and 337 of Indian Penal Code, which is extracted

hereunder:

Section 288 of IPC:

Negligent conduct with respect to pulling down or repairing buildings.-Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 337 of IPC:

Causing hurt by act endangering life or personal safety of others.-Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

8. Therefore, it is needless to say that so as to attract an offence under Section 337 an Act is to be done rashly or negligently endangering a human life by the offender.

9. In so far as Section 288 is concerned there must be a negligent conduct as act with respect to pulling down or repairing buildings by the offender.

10. Now coming to the averments set forth as against the petitioners, the only accusation made is that the petitioner had not supplied materials in time, which resulted in accident.

11. It is needless to say that at any stretch of imagination, such a bald allegation is unsustainable for criminal prosecution since for the reason that such a baseless allegation cannot form the basis for a criminal prosecution. Such that petitioner cannot be even held as a remote cause, since for the reason that as per the version of the 2nd respondent it is the 2nd accused who was solely in charge and responsible for the said site work.

12. Admittedly in the case on hand no act or conduct of the petitioner has caused the accident, therefore he cannot be subjected to a criminal prosecution. The petitioner herein therefore in no way can be held liable for the Negligence of the 2nd respondent. Furthermore there is no rash or negligent act or

omission remains demonstrated as against the petitioner in the FIR.

13.In the result, for the reasons stated supra, this Criminal Original Petition stands allowed and the FIR in Crime No.961 of 2010 on the file of the 1st respondent police is quashed in so far as this petitioner is concerned. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vs

To

The Sub-Inspector of Police,
N-1, Royapuram Police Station,
Washermenpet, Chennai.

+ 1cc Mr.G.Karthikeyan Advocate Sr.No. 45515 (05/01/2018)

Cr1.O.P No.2983 of 2011 and M.P.No.1 of 2011

RRK(06/12/2017)

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