

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No. 2122 of 2011

ORDER:

This petition is filed by the petitioners seeking for quash of the proceedings in P.R.C.No.4 of 2009 on the file of the Court of the II Additional Judicial Magistrate of First Class, Warangal.

2. Heard the counsel for the petitioners and the Public Prosecutor, who takes notice for the 1st respondent. The 2nd respondent does not appear in spite of notice.

3. The counsel for the petitioners submits that the case was taken on file against the petitioners for the offences under Section 304-II and 337 IPC but the offence under Section 304-II IPC does not get attracted to the facts of this case. He takes the Court through the contents of the complaint, wherein the allegation is that the booking counter in Suseela Cinema theatre, where the complainant went for watching a movie, was constructed with iron pipes and iron sheets in the top and the same is shaking along with the pipes and due to the shaking of iron sheets, electric wires touched the iron sheets, and thereby electricity passed on to the iron sheets, as a result of which they sustained a shock and were shifted in an ambulance and two persons died out of the electric shock.

4. The counsel for the petitioners contends that the above cannot be termed as an act amounting to Culpable Homicide amounting to murder. The ingredients of the Exceptions 1 to 5

under Section 300 IPC do not attract the allegations mentioned in the complaint. He contends that, at best, it can be a case of Section 304-A IPC but not Section 304-II IPC.

5. There cannot be any difference of opinion with the contentions of the counsel for the petitioner.

6. The Criminal Petition is accordingly allowed and the further proceedings in PRC.No.4 of 2009 so far as the offence under Section 304-II IPC are concerned, are quashed. The Magistrate can frame charges for the offence under Section 304-A IPC while framing charges.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

November 10, 2017
LMV



T. RAJANI, J