

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 06.03.2018)

(Pronounced on : 12.06.2018)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.O.P.No.312 of 2011

and

M.P.No.1 of 2011

Jeyakrishnan

... Petitioners/2nd Accused

... Vs ...

The State by

The Inspector of Police,

G-5, Secretariat Police Station (Law&Order),

Chennai - 10,

Crime No.687 of 2009

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.3145 of 2010 from the file of the II Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

For Petitioner : Mr.K.Balaji

For Respondent : Mr.T.Shunmuga Rajeswaran,  
Govt.Advocate (CrI.side)

ORDER

This criminal original petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.3145 of 2010 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2. The brief facts which are necessary for determination of the case, are as follows:-

i) The respondent has filed a case against the petitioner and another on the allegation that they have committed an offence punishable under Section 304(A) of the Indian Penal Code. The charge against the petitioners is under Section 304(A) I.P.C.

ii) The petitioner is arrayed as 2nd accused in this case. The charge against the petitioner is that the deceased Srinivasan died due to the electrocution (electric shock) during the course of his employment while he was on duty in M/s.Anandhi Metal Company, the 1st accused in this Case. Due to the negligent act of the owner of the 1st accused, the alleged accident had taken place. Hence being an owner of the 1st

accused/the petitioner herein, he is responsible for the accident.

3. The petitioner submits that the 1st accused is a partnership firm, and Mr.A.Sovabose Alias A.Gopalakrishnan and Mr.R.Velmurugan are the partners of the firm and they are running the 1st accused company till date. The petitioner is not in any way responsible for the accident and since he is a stranger, he cannot be prosecuted for offence under Section 304 (A) of I.P.C. Even as per the charge sheet, it is stated that the owner of the 1st accused/M/s.Anandhi Metals Company is responsible for the alleged accident, but the petitioner is neither a partner of A.1 nor owner of the Company. Further, there is no allegation that he was in-charge and responsible for the day-to-day affairs of the A1 Company. Therefore, on the basis of the vague allegations in the complaint, the petitioner cannot be proceeded for the alleged accident.

4. There is absolutely no material available on record for the offence u/s 304-A I.P.C. Further, if the entire evidence available on record is taken as it is, ingredients for the said offence is not made out in this case against the petitioner. The allegation made in the complaint will prove that the petitioner has been unnecessarily implicated in this case.

5. The learned counsel for the petitioner further submits that the respondent has not produced any material to proceed against the petitioner and further, the charge against the petitioner is a clear abuse of process of law. Hence, the charge sheet is liable to be quashed against this petitioner. Further, he submits that as per Section 304-A of I.P.C., only the owner or the person(s) in-charge of the day-to-day affairs of the Company can be prosecuted. The petitioner submits that he is not an owner and not the person in-charge of the A1 Company at the time of the alleged occurrence which took place and even accepting the fact without admitting, the petitioner cannot be prosecuted in this case.

6. The learned counsel for the petitioner has submitted that there is no iota of evidence connecting the petitioner/accused with the alleged crime and is not the owner of the Company and as such, he is not connected whatsoever with the affairs of the Company which is alleged to have committed certain offence and hence, he seeks for quashment of proceedings as against him in C.C.No.3145 of 2010 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai, sofaras it relates to him.

7. The learned Government Advocate (Crl.side) has filed counter affidavit stating as follows:-

i) On 08.08.2009 at about 16.30 hours, the de-facto

complainant lodged a complaint before the respondent police against the petitioner/accused Jeyakrishnan, who is the owner of Ananthi Metal Steel Company and the de-facto complainant is working as Welder in the Steel Company and the deceased Srinivasan, victim Gopal and one Mani were also working as tinkers in the Company. On the same day at about 4.30 p.m., while they were doing their work, there was a short circuit in the Company, due to which, the deceased Srinivasan became unconscious and the victim Gopal sustained injuries, and after then, both were taken to Kilpauk Medical College Hospital, but the Doctor confirmed that the deceased was brought dead. Due to the negligence and without proper maintenance by the petitioner/accused, death of the deceased occurred. Hence, this complaint.

ii) Based on the above complaint, a case was registered in G-5 Secretariat Colony P.S. Crime No.687 of 2009, U/s 304(A) IPC against the accused persons i.e., Ananthi Metal Corporation (A1) and Jayakrishnan (A2)

iii) During the course of investigation, then Sub Inspector of Police arrested the petitioner/accused and his confession statement was recorded in the presence of witnesses, and he was produced before the XIV Metropolitan Magistrate Court, Egmore, Chennai and remanded to judicial custody and on the same day, he was released on bail.

iv) After completion of investigation, he filed charge sheet against the accused persons (A1&A2) before the II Metropolitan Magistrate Court, Egmore, Chennai and the same was taken on file in C.C.No.3145 of 2010. The overt act of the petitioner/accused (A2) is that he is the owner of the Ananthi Steel Corporation and he is fully responsible for the death of the deceased and due to his negligence and not providing any safety measures to his employers, the death of the deceased occurred. The wife of the deceased, namely Tmt.Gowri filed petition before the Labour Court, Chennai in W.C.No.261 of 2010 against the petitioner/accused for compensation and as per the order dated 20.01.2015, the petitioner/accused settled Rs.4,50,000/- to the deceased wife.

8. After hearing both the parties, it is seen from the records filed along with final report before the trial Magistrate that a worker/employee in the first accused Company got electrocuted and died. Accordingly, under Section 304(A) I.P.C., complaint has been filed and a case has been registered under Section 304(A) I.P.C and same is pending and the petitioner/2nd accused is arrayed as the owner of the Company. The attention of this Court was drawn with regard to the members of the victim family and other co-owners and however, there was

no whisper about the name of the owner in the statement of witnesses.

9. Learned counsel appearing for the petitioner relying upon the Partition Deed entered between A.Gopalakrishnan and the owner of the building during the year 2002 and the lease agreement entered between A.Gopalakrishnan with Kannappa Chettiyar contended that in the final report filed before the learned Judicial Magistrate, there is no document for the alleged nexus against the petitioner/A2 with the alleged crime.

10. Per contra, the learned Government Advocate (Crl.side) would contend that the accused is actually involved in the day-to-day affairs and administration of the business transaction of Anandan Corporation, the accused A1 and he is also owner of the accused Company, as such, he is arrayed as A2 and relied upon the Registration Certificate issued by the Sales Tax Department which is enclosed with the final report.

11. Admittedly, the said Registration Certificate issued by the Sales Tax Department was not challenged. Further, the photograph of the accused which is also affixed in the said Registration Certificate goes to indicate that he is involved in the day-to-day affairs of the business and hence, I am unable to accept the contention put forth by the petitioner. Per contra, there is sufficient material available on record to proceed against A2, the petitioner herein. However, the same is subject to the proof during the time of the trial. In this view of the matter, the quashment of the complaint does not arise and accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The II Metropolitan Magistrate Court, Egmore, Chennai

+lcc to Mr.K.Balaji, Advocate, S.R.No.36841

Crl.O.P.No.312 of 2011 and  
M.P.No.1 of 2011

GSP(18/06/2018)