WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD).No.1607 of 2014
and
M.P.(MD) Nos.1 and 2 of 2014

Xavier Raj ..Petitioner/Sole accused

Vs.

1.The State represented by
The Inspector of Police,
Perumalpuram Police Station,
Thirunelveli District. ...1st Respondent/Complainant

2.Nageswararao ... 2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in Charge Sheet in C.C.No.24 of 2013 on the file of the Judicial Magistrate No.1, Tirunelveli in crime No.880 of 2012 on the file of the first respondent and quash the same.

For Petitioners : Mr.V.Kannan

For Respondents : Mr.M.Asokan, G.A. (Crl. Side) for R1

O R D E R

This quash petition is filed to quash the criminal proceedings in C.C.No.24 of 2013 on the file of the Judicial Magistrate No.1, Tirunelveli, having been taken cognizance for the offence under Sections 304(A) of IPC against the petitioner/sole accused.

2.The learned counsel appearing for the petitioner would submit that while the petitioner was working as Office Superintendent, the alleged occurrence took place. The said post is a non technical post and he is no way connected with the works of the deceased. He further contended that so many persons have been appointed to supervise and look after the day-to-day affairs of the construction and as such, the petitioner has nothing to do with the alleged occurrence. The ingredients of Section 304(A) of I.P.C. would not attract against the petitioner and hence, he prayed for the quashment of the criminal proceedings.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

3.The learned Government Advocate (criminal side) submitted that there are materials available to proceed with the trial as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charge framed against the petitioner has to be gone into a full-fledged and hence, he prayed for dismissal of the petition.

4.It is seen from the records that only on the petitioner's instructions and under supervision, the deceased was standing in the third floor and putting sun shade grip without following any safety measures. Further, it cannot be quashed at its threshold and it has to be gone in to by full fledged trial. Therefore, the charge cannot be quashed at this stage and this criminal original petition is liable to be dismissed.

5.Accordingly, this criminal original petition is dismissed with the liberty to the petitioners to raise all the grounds before the trial Court. Consequently, connected miscellaneous petitions are also dismissed.

6.At this stage, the learned counsel appearing for the petitioner represented that the petitioner is working far away from the trial Court and as such, he prayed for dispense with the personal appearance of the petitioner before the trial Court.

7.Considering the said request, the appearance of the petitioner before the learned Judicial Magistrate No.1, Tirunelveli is dispensed with, except the dates of hearing on which, the learned Judicial Magistrate insisted the petitioner to appear before the Court.

Sd/
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar(CS-III)

To
1.The Judicial Magistrate No.1,
Tirunelveli.
2.The Inspector of Police,
Perumalpuram Police Station,
Thirunelveli District.
3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
+1cc to Mr.V.Kannan, Advocate, SR.No.82920

Crl.O.P.(MD).No.1607 of 2014
and
M.P.(MD) Nos.1 and 2 of 2014
05.09.2018

https://hcservices.ecourts.gov.in/hcservices/

ARUL

KK/SV/SAR-3/08.10.2018/2P-5C