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CRL.O.P.No.30381 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.30381 of 2018

&

CRL.M.P.No.17907 of 2018

C.Pounraj

... Petitioner

Vs.

1.Sub-Inspector of Police,
T-2, Ambattur Police Station,
Ambattur, Chennai – 600 058.
(Cr.No.1942 of 2017)

2.R.Sakthivel

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in STC.No.239 of 2018 on the file of the Judicial Magistrate, Ambattur and quash the proceedings therein, in so far as the petitioner is concerned.

For Petitioner : Mr.Badrinath.B

For 1st Respondent : Mr.A.Damodaran
Additional Public Prosecutor

For 2nd Respondent : No appearance



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ORDER

This Criminal Original petition has been filed to call for records in STC.No.239 of 2018, on the file of the Judicial Magistrate, Ambattur and quash the proceedings.

2.The petitioner/A1, who is facing trial in STC.No.239 of 2018, on the file of the Judicial Magistrate, Ambattur, under Section 338 IPC, has filed this criminal original petition.

3.The gist of the case is that the petitioner is owing a factory in K-36, 1 Sector, 8th street, Ambattur Industrial Estate. He had employed PW2 as Mason for some miscellaneous work in his factory. The defacto complainant is the brother of the victim. In this case, A2 was supervising the work on 25.11.2017 at about 2.30 p.m. and the victim slipped off from the ladder and fell down from 20 feet height and sustained injuries on his spinal cord and taken treatment. On the complaint of the defacto complainant, the case was registered.



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4.The contention of the learned counsel for the petitioner is that the petitioner was not present in the scene of occurrence when the victim fell down from the ladder. The petitioner had left the work place as the work is being supervised by A2 who was present there. The victim PW2 had gone for lunch and taken alcohol, thereafter, due to the influence of the alcohol, he had slipped and fell down from the ladder, which is confirmed by the statement of Doctor Sureshbabu/PW8 who examined the victim and confirmed the injuries sustained. Doctor Sureshbabu/PW8 stated that from the victim alcohol smell was found. Doctor Raj Ganesh/PW9 stated that he examined the victim and entered the nature of injury sustained by the victim in the accident register. The traces of alcohol shows that at that time, the victim was not in a sound state of mind and lost consciousness, due to which he fell down from the ladder from 20 feet height. In view of the same, the learned counsel for the petitioner submitted that the victim fell down due to the consumption of alcohol, for which, the petitioner cannot be vicariously held liable in an IPC offence.

5.The learned Additional Public Prosecutor opposes this petition and submits that the victim in this case suffered spinal cord injury and the



petitioner had not paid any compensation to the victim. The petitioner engaging PW2 in the miscellaneous work in his factory is not in dispute. The accident had taken place inside the factory while the maintenance work was going on and the victim was taken to KMC Hospital and to Rajiv Gandhi Government Hospital for further treatment. He further submitted that after registering the case, the Inspector of Police examined the witnesses, recorded the witnesses statements, collected documents and filed final report. He also submitted that the points raised by the petitioner are to be decided in the trial and not in this quash petition and strongly opposed this petition.

6.On a perusal of the materials, it is seen that PW1 is the complainant, PW2 is the injured person, Pws 3 to 5 are the witnesses who were present at the scene of occurrence, PWs 6 and 7 are the observation mahazar witnesses and PWs 8 and 9 are the Doctors and PW10 is the investigating officer.

7. From the statement of the witnesses and materials available, finding that there is a prima facie case to proceed with the trial and the



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points raised by the petitioner are factual in nature and they have to be decided in the trial, this Court is not inclined to entertain this petition, accordingly this Criminal Original Petition is dismissed. Considering that the trial is pending from the year 2008 without any progress, the trial Court to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also closed.

22.02.2022

Index: Yes/No

Internet: Yes/No

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To

1.The Judicial Magistrate, Ambattur.

2.The Sub-Inspector of Police,
T-2, Ambattur Police Station,
Ambattur, Chennai – 600 058.

3. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

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