



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.02.2019
CORAM

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

CrI.O.P. (MD) No.1054 of 2016

and

CrI.M.P. (MD) No.533 of 2016

1.M.Muniasamy

2.M.Velmurugan

... Petitioners/Accused

Vs.

1.State of Tamil Nadu,
rep. by The Sub Inspector of Police,
Maaraneri Police Station,
Virudhunagar District.
Crime No.28 of 2015

... Respondent/Complainant

2.Suresh Kumar

... Respondent/Informant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to C.C.No.153 of 2015 on the file of Judicial Magistrate, Sivakasi and quash the same.

For Petitioner : Mr.N.Dilip Kumar

For Respondents: Mr.A.Robinson,

Government Advocate (CrI. Side)
for R.1

ORDER

This Criminal Original Petition is filed to quash the final report filed as against the petitioners in C.C.No.153 of 2015 on the file of the learned Judicial Magistrate, Sivakasi.

2. The first petitioner is the owner of a Match Factory, namely, M/s.Subramanian Match Works and the second petitioner is the foreman. On 21.01.2015, there was a fire accident in the factory, due to the friction in the phosphorus head, when a workman attempted to remove the match stick log from the rack and out of the same, the workman, namely, Thambidurai, S/o. Gurusamy, died on the spot. Based on the complaint given by the second respondent, the first respondent police has registered a case in Crime No.28 of 2015 on 21.01.2015 and after investigation, filed a final report on 02.02.2015 as against the petitioners herein for the offence punishable under Sections 286, 304(A) IPC r/w Section 9(b) (1) (a) of the Explosives Act.



4. Learned Counsel for the petitioners would submit that they have obtained the license required under the Arms Act and doing business in accordance with law. No license is required under the Explosives Act, as the materials / chemicals used in the match factory will not come under the definition of Explosives Act. Therefore, he pleaded that the manufacturing activity in a Match Factory will not attract the provisions contained under the Explosives Act.

5. A clarification letter sent by the Chief Controller of Explosives, Petroleum and Explosives Safety Organisation, Government of India, dated 05.10.2015, addressed to the President, All India Chamber of Match Industries, Sivakasi, was also brought to the knowledge of this Court, wherein a clarification was sought for as to whether the manufacture, possession, use, sale, transport, import and export of safety matches and its raw materials, viz., Potassium Chlorate and Sulphur are covered under Section 5 of the Explosives Act, 1884. The Government, vide its clarification letter dated 05.10.2015, has clarified as follows:

"... it is intimated that manufacture, possession, use, sale, transport, import and export of safety matches does not come under the purview of Explosives Act, 1884 and Explosives Rules, 2008. However, it is mandatory to obtain licence from the District Authority for the storage of Potassium Chlorate and Sulphur under Arms Act, 1959."

6. In view of the specific stand of the Government of India that the materials, namely, Potassium Chlorate and Sulphur used in safety matches does not come under the Explosives Act, as such, the offence under Section 9(b)(1)(a) of the Explosives Act will not be attracted for the accident that was taken place on 21.01.2015. Accordingly, the offence under Section 9(b)(1)(a) of the Explosives Act alone is quashed.

7. At this juncture, the learned Government Advocate (Crl. Side) intervened and submitted that the charges have already been framed and trial has also commenced. Under such circumstances, the trial Court is directed to frame the charges for the remaining offences and shall proceed with the trial in the manner known to law.

8. With the above observations and directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(cs-II)

/True Copy/

Sub Assistant Registrar



To

1.The Judicial Magistrate,
Sivakasi.

2.The Sub Inspector of Police,
Maaraneri Police Station,
Virudhunagar District.

+1cc to Mr.N.Dilip Kumar, Advocate, SR.No.49965

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SP/27.03.2019/ 3P/4C