



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.22212 of 2015

and

MP(MD)No.1 of 2015

Sanoop Kumar

... Petitioner / 1st Accused

Vs.

1.The Inspector of Police,
Railway Police Station,
Madurai Railway Junction,
Madurai.

...1st Respondent / Complainant

2.Revathi

... 2nd Respondent /
Defacto complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records of the charge sheet in C.C No.28 of 2015 on the file of the Judicial Magistrate No.VI, Madurai and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.A.Haja Mohideen

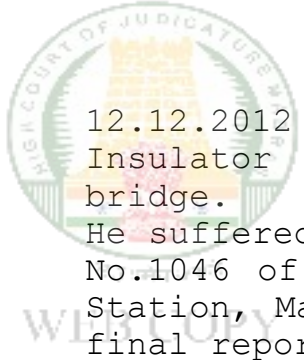
For Respondents : Mr.A.Robinson,
Government Advocate (crl.side) for R1

No appearance for R2

ORDER

The petitioner is facing trial in C.C No.28 of 2015 on the file of the Judicial Magistrate No.VI, Madurai for the offence under Section 304 (A) IPC.

2.A tender agreement dated 21.01.2008 was entered into between the Ministry of Railways and M/s.Best & Crompton Engineering Project Ltd, Chennai for Designing, Supply, Erection, Testing and Commissioning of 25KV, 50Hz Single Phase, Traction Overhead Equipments, Switching Stations, Booster Transformer Stations and LT Supply Transformer Stations in Tiruchirappalli (Excl)-Madurai (Incl) section of Southern Railway under RE Project, Chennai. When the contract works were being carried out, an accident occurred on



12.12.2012 at about 10.00 A.M near Madura Coats at Madurai. An Insulator Pipe fell down on one Raju who was working under the bridge. Unfortunately, the said Raju was not wearing any helmet. He suffered head injury and died as a result. In this regard, Crime No.1046 of 2012 was registered on the file of the Railway Police Station, Madurai Railway Junction. Investigation was taken up and final report came to be filed against three persons. The petitioner herein was shown as A1. Cognizance of the offences was taken and the case itself was taken up for trial in C.C No.28 of 2015 by the Judicial Magistrate No.VI, Madurai. To quash the same, this criminal original petition has been filed.

3.It is not in dispute that the petitioner is only a technical engineer employed in railways. The Ministry of Railways had entrusted the work of carrying out certain works to M/s.Best & Crompton Engineering Project Ltd, Chennai. The second accused was the Project Manager while the third accused was the Contract Supervisor. The petitioner was not having any field responsibility. When the principal employer had entrusted the works to a contractor, if anything occurs, the principal employer can be made vicariously liable for damages. When it comes to penal liability under IPC, the principal employer cannot be made vicariously liable.

4.I also went through the statements recorded under Section 161 of Cr.PC. By no stretch of imagination can the petitioner be made liable. Even if all the materials enclosed along with the final report are taken to be true, still no case is made out against the petitioner herein. The offence under section 304 (A) of IPC can be said to be made out only if the accused can be said to have caused the death of any person by doing any rash or negligent act not amounting to culpable homicide. In this case, the deceased was not wearing helmet. Works were being supervised by the other two accused. The petitioner was nowhere in the picture. The essential ingredients of Section 304 (A) IPC are not present in this case. Therefore, making the petitioner to undergo the agony of criminal trial, can only be characterized as an abuse of legal process as far as the petitioner is concerned. Therefore, the impugned prosecution stands quashed as far as the petitioner is concerned. The criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.VI, Madurai.

2.The Chief Judicial Magistrate, Madurai.

3.The Inspector of Police, Railway Police Station,
Madurai Railway Junction, Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-99522[F] dated
19/11/2019)

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and

MP (MD)No.1 of 2015

19.11.2019

ns (CO)

TR(13.01.2020) 3P 6C