

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.29094 of 2014

1. R.Padmanabhan
2.S.Baskar

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by Sub Inspector of Police,
Krishnapuram Police Station,
Dharmapuri District.
(Cr.No.260 of 2013)

2. R.Thiyagarajan
[The 2nd respondent as impleaded as per the
order of this Court dated 20.01.2010 made in
M.P.1/15 in Crl.O.P.No.29094/14 by RPSJ]

... Respondents

PRAYER:Criminal Original Petitions have been filed under Section 482 of Criminal Procedure Code to call for records in S.T.C.No.554 of 2014 on the file of the Judicial Magistrate - II, Dharmapuri and quash the same.

For Petitioners: Mr.V.Bhiman

For R1 : Mr.S.Karthikeyan,
Additional Public Prosecutor

सत्यमेव जयते
ORDER

The petitioners, who are A1 and A3 in S.T.C.No.554 of 2014, which is pending on the file of the Court of Judicial Magistrate No.II, Dharmapuri, for offence under Sections 287 and 338 of I.P.C has filed this quash petition.

2. The gist of the case is that on 16.11.2013 at about 5 P.M., the defacto-complainant Thiyagarajan was working as a temporary casual worker in the firm at Hitech Industries Private Limited. These petitioners as well as one Saravanan, Manager,

have not taken proper care and safety measures in the factory and due to the negligence and by not providing safety measures, the defacto-complainant was compelled to work in such condition thereby the defacto-complainant had lost three fingers of his left hand. Hence, a case came to be registered.

3. The contention of the petitioner is that the first petitioner is the supervisor and the second petitioner is the Proprietor of Hitech Industries Private Limited and without arraying Hitech Industries Private Limited Company, they cannot be proceeded further. Further, the defacto-complainant had remained in the factory after 5 p.m, which is beyond his work time, without any authority, for which these petitioners cannot be found fault with. Even when the case is referred before the Mediation, the petitioner/defacto-complainant had made huge claims which was not in consonance to the injuries and prayed for quash.

4. The learned Additional Public Prosecutor (Crl.Side) submitted that in this case, the accident has taken place inside the factory which is admitted by them and the defacto-complainant had lost 3 of his fingers in the accident and his age is '53' at the time of accident and now he is '60'. Due to the accident he has lost his earning capacity and had suffered permanent disability. Due to the disability, he is unable to carry on with his work. During investigation 10 witnesses have been examined and several documents have been annexed charge sheet filed. There are eye witnesses to the occurrence. The Government Doctor from the Government Hospital, Dharmapuri, had given treatment initially and thereafter the defacto complainant had taken treatment as an inpatient. The evidence of the Doctors have been recorded who are L.W.8 and L.W.9. Their evidence speaks about the injury . It is further submitted that the points raised by the petitioner viz negligence has to be agitated during trial and not before this Court.

5. Considering the same, in view of the fact that the points raised by the petitioner can only be agitated during the trial and considering the fact that these petitioners are avoiding the summons for appearing before the trial Court. The Trial Court to take coercive steps to serve summons and secure the accused.

6. Accordingly, this Criminal Original Petition is dismissed. The learned counsel for the petitioners submits that he would instruct the petitioners/accused 1 and 3 to appear before the trial Court on the next hearing date. On such appearance the Trial Court shall proceed with the matter in

accordance with law. Considering the case is pending for six years without progress, the Trial Court to complete the trial within a period of 6 months from the date of appearance of the accused.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub Inspector of Police,
Krishnapuram Police Station,
Dharmapuri District.

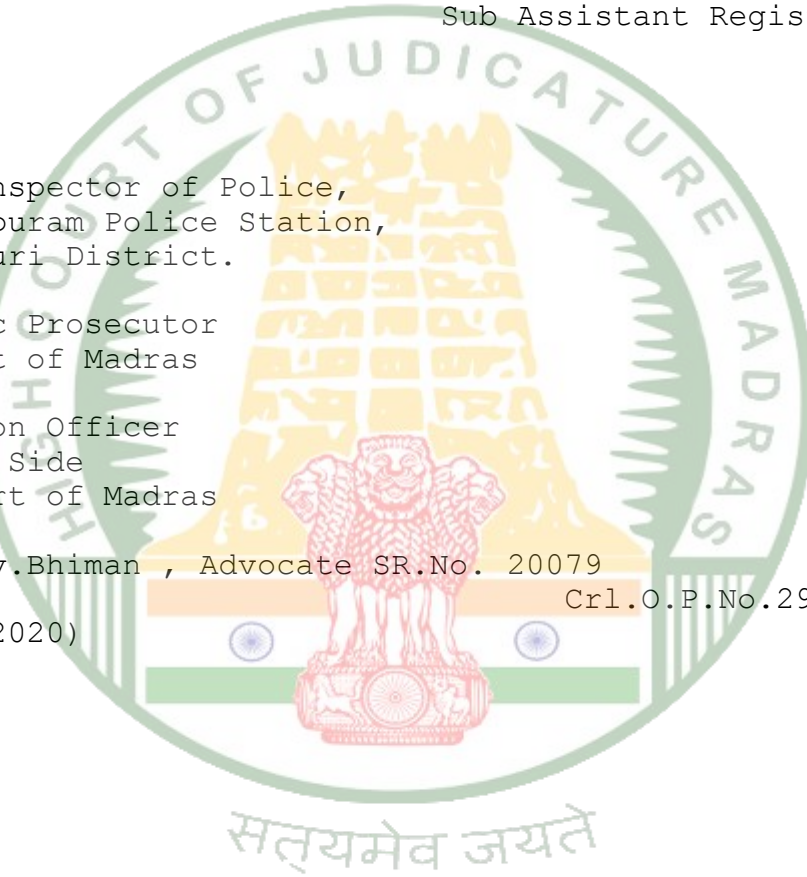
2.The Public Prosecutor
High Court of Madras

3.The Section Officer
Criminal Side
High Court of Madras

+1cc to Mr.v.Bhiman , Advocate SR.No. 20079

Cr1.O.P.No.29094 of 2014

A.SK(10/03/2020)



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