

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2020

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.32299 of 2019  
and  
Crl.M.P.No.17757 of 2019

1. B.Kumar
2. V.Murugan

...Petitioners

-Vs-

1. State through  
The Inspector of Police,  
D-4, Padalam Police Station,  
Kancheepuram District.  
(Crime No.262 of 2019)

2. V.Anjalai

... Respondents

Prayer:

Criminal Original Petition filed under section 482 of Criminal Procedure Code, to pass an order calling for the records in Crime No.262 of 2019 now pending investigation on the file of the first respondent and quash the same.

For Petitioner : No appearance

For R1 : Mr.S.Karthikeyan  
Additional Public Prosecutor

For R2 : No appearance

O R D E R

This Criminal Original Petition has been filed seeking a relief to quash the F.I.R. registered in Crime No.262 of 2019 pending on the file of the first respondent.

2. Despite repeated adjournments, there was no representation for the petitioners.

3. Heard the learned Additional Public Prosecutor appearing for first respondent police.

4. The case of the petitioners is that they were arrayed as accused No.1 and 2 in Crime No.262 of 2019 on the file of the first respondent under sections 337 and 304(A) of IPC on 18.10.2019. The allegation in the F.I.R revealed the facts that a portion of the wall lying on the southern side collapsed during the construction work on the progress and the workers on the consequences of the same have succumbed to the injuries.

5. Now according to the grounds raised by the petitioners, it was stated that the loss sustained by the deceased was compensated by paying money/monitory relief. Further, the building alleged to be collapsed at the time of occurrence was also reconstructed as instructed by the third parties. Therefore, the petitioners are noway responsible for the alleged occurrence and accordingly, the learned counsel for the petitioners prays to quash the F.I.R.

6. Having considered the submissions made by the counsel appearing for the first respondent along with relevant records, the only issue has to be decided for the alleged occurrence is the petitioners herein are acted negligently at the time of occurrence or not? For finding out the same, it is necessary to see the evidence which would give by the persons who are all present at the time of occurrence. In otherwise, the averments found in the F.I.R discloses the cognizable offence, as the petitioners herein are negligently constructed the wall, which collapsed at the time of occurrence.

7. Therefore, at this juncture, it is relevant to refer the Judgment of Hon'ble Supreme Court in the case of "SAU.Kamal Shivaji Pokarnekar -vs- The State of Maharashtra & Ors." dated 12.02.2019 wherein it is stated as follows:

" A perusal of the complaint discloses that prima facie, offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

Applying the ratio laid in the above referred Judgment, grounds raised by the petitioner are not at all sufficient to quash the F.I.R. and this Court is not inclined to entertain this petition.

8. Accordingly, the Criminal Original Petition is dismissed.  
Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Inspector of Police,  
D-4, Padalam Police Station,  
Kancheepuram District.
2. The Public Prosecutor,  
High Court, Madras.

Crl.O.P.No.32299 of 2019  
and  
Crl.M.P.No.17757 of 2019

AJS (CO)  
CS/05/11/2020



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