



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CrI.O.P No. 6824 of 2021
and CrI.M.P Nos.4519 & 4521 of 2021

1. G. Mahendran

Petitioner

vs.

1. The State : Rep. by
Inspector of Police (L&O),
No.3, Muthialpet Police Station,
Chennai - 600 001.

2. Gowthami

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.850 of 2019 on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai.

For Petitioner : Mr.S.Baskaran

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records pertaining to C.C.No.850 of 2019 on the file of the XVI Metropolitan Magistrate Court, George Town, Chennai and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Criminal Side) appearing for the first respondent police.

3. The contention of the petitioner is that the deceased Sumanraj was a partner in the partnership firm viz., M/s.Raghava Water Service Station, No.1/3, New Street, Mannadi, Chennai - 600 001, wherein the deceased Sumanraj is the managing partner and the petitioner is the other partner. The fact remains that it is only at the instance of the deceased



Sumanraj, the said partnership firm was started, as it is the deceased Sumanraj, who knows and has experience in the two-wheeler and four wheeler service operational procedures, etc., and the petitioner was only named as a sharing partner, who had invested some money and had undertaken to take care of the rent and electricity payable by the said firm. The said partnership firm was established in May, 2017 with all other covenants, regarding sharing of profit and loss, payment of rent, sharing of work etc., which have been clearly stated in the said unregistered partnership firm. Though the petitioner had invested, he had no knowledge about the Water Service Station. Another water station was started by the deceased Mr.Sumanraj, the petitioner's was to share 35% out of income and the balance 55% was taken by the Sumanraj and 10% was towards maintenance charges. The deceased was independently running the said business.

4. The petitioner further submitted that he was not present on the date of occurrence in 2018 and thereafter, rushing to the scene of Occurrence and taken the deceased to the Government Hospital, which is reflected in the Accident Register. It is not in dispute that the deceased died due to electricity shock, which is substantiated by the report given by the Electricity Department. It is also seen that there has been leakage of electricity and also the water getting into the switch box and other areas, for which the petitioner cannot be charged. In support of his submissions, the learned counsel for the petitioner relied upon a decision of the Apex Court in the case of Jacob Mathew v. State of Punjab and Another, reported in (2005) 6 SCC 1).

5. The learned Additional Public Prosecutor appearing for the first respondent Police submitted that, in this case, scene of occurrence is the accident place and the manner of the accident is not in dispute. The death had taken place due to electricity Sepogeal shock, which is also not in dispute. The only contention of the petitioner is that, being a partner, he cannot be held responsible for any consequence and recklessness. He further submitted that he has been running the business with the deceased and all business transactions was by the deceased and the deceased had died out of electric shock. The Officials of the Electricity Department, Doctor and other witnesses have clearly stated about the manner in which the accident had taken place and also the cause of death. The points raised by the petitioner are disputed facts, which ought to be adjudicated in the trial and not in the quash petition.

6. Considering the facts and circumstances of the case, it is to be observed that all the points raised by the petitioner and all factual aspects are to be adjudicated only in the trial.



This case is pending from the year 2019. In this regard, 13 witnesses have been examined so far, and trial is pending, the Trial Court is directed to complete the trial in C.C.No.850 of 2019, by the XVI Metropolitan Magistrate Court, George Town, Chennai, within a period of four months from the date of receipt of a copy of this order and after reconvention of normal functioning of the Court.

7. Accordingly, the Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Inspector of Police (L&O),
No.3, Muthialpet Police Station,
Chennai - 600 001.
2. The XVI Metropolitan Magistrate Court,
George Town, Chennai.
3. The Public Prosecutor,
High Court of Madras,
Madras.

+lcc to Mr.S.Baskaran, Advocate, S.R.No.22554

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KV(CO)
CB(22/07/2021)