



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 12890 of 2017

and

Crl.M.P.No. 8387 of 2017

Shyam Sundar,

. . . Petitioner / Accused

Versus

State represented by its

Inspector of Police,

E-4, Abhiramapuram Police Station,

Chennai 600018.

. . . Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.5981 of 2016 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.K.Ravi

for M/s.Rugan and Aya

For Respondent : Mr.S.Vinoth Kumar

Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash C.C.No.5981 of 2016, pending on the file of XXIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2. The case of the prosecution is that the accused has sent the deceased/J.Venkateswaran, for repairing the AC unit belong to one Gopala Krishnan. While the deceased and another attending the AC plant, the deceased fell down from the first floor and succumbed to injuries, thereby, the accused for committed an offence under Section 304 A of the Indian Penal Code, on the ground that the petitioner had not provided safety equipment to the deceased before sending him for the job on the date of occurrence.

3. Heard Mr.K.Ravi for M/s. Rugan and Aya and Mr.S.Vinoth Kumar, learned Public Prosecutor (Criminal Side) for the respondent.

4. It is the contention of the learned counsel appearing for the petitioner that initially the case has been registered as "accident fall" and after the death of the deceased, for the purpose of compensation, final report has been filed, under Section 304 A of the Indian Penal Code. It is not disputed by the learned counsel appearing for the petitioner that the



deceased was working as AC mechanic with the accused. On the date of occurrence, the deceased fell down from the sunshade of the first floor of the house of Gopalakrishnan, later succumbed to injuries which resulted in his death. It is to be noted that to bring home the guilt of the accused. Death should have been the result of either rash or negligent act of the accused. Admittedly, the accused was not present in the place. The petitioner just sent the deceased to attend the AC in the house of Gopalakrishnan. While attending, the deceased fell down. FIR has been registered in Crime No.1000 of 2016, on the file of the respondent Police, on 3/6/2016. After the deceased died in the hospital on 7/6/2016, the respondent Police recorded statements of witnesses under Section 161 (3) of the Code of Criminal Procedure and filed his final report dated 24/10/2016.

5. In view of the above observation, this Court is of the view that continuation of the criminal prosecution is a clear abuse of process of law as the entire statements of the witnesses recorded by the learned Magistrate clearly reveal that the petitioner was in no way involved in the offence and no case has been made out against him to bring him within the ambit of Section 304 A IPC.

6. In the result, this Criminal Original Petition is allowed. The entire proceedings emanating from the First Information Report, including the final report in C.C.No.5981 of 2016 is quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mvs.

To

1.The Inspector of Police,
E-4, Abhiramapuram Police Station,
Chennai 600018.

2. The Public Prosecutor
High Court, Madras-104.

+2cc to M/s.Rugan & Arya, Advocate, S.R.No.57437

Crl. O.P. No. 12890 of 2017
and
Crl.M.P.No. 8388 of 2017

PMK(CO)
SB(07/12/2021)