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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.19830 of 2017

&

Crl.M.P.Nos.11966 & 11967 of 2017

Ponnupappa

...Petitioner/Accused-5

Vs.

The State

Represented by the Additional Deputy Commissioner of Police,
Prohibition Enforcement Wing (East),
i/c. Special Investigation Team,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.

...Respondent/Complainant

Prayer: Original Petition filed under Section 482 Cr.P.C to call for records and quash the final report dated 16.11.2015 filed against the petitioner in P.R.C.No.31 of 2014 pending on the file of the learned Judicial Magistrate Court, Sriperumbudur.

For Petitioner : Mr.S.Ashok Kumar

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. side)

ORDER

This petition has been filed to quash the final report dated 16.11.2015 filed against the petitioner in P.R.C.No.31 of 2014 pending on the file of learned District Munsif-cum-Judicial Magistrate, Sriperumbudur for the offences under Sections 120 (b), 304(ii) & 308 of IPC.

2. Heard the learned counsel for petitioner and the learned Government Advocate (Crl.side) appearing on behalf of the respondent.

3. A2 is the Managing Director, A3 to A5 are Directors, A6 is Structural Engineer, A7 is the Managing Director of Dhristicone Architectural, A8 to A10 are Site Engineers and as far as A11 and A12 are concerned, the charge abates since they



are deceased. This fact is not disputed.

4. The crux of the prosecution case is that A1 company involved in the construction of a multi-storied building in Moulivakkam, Chennai. When the building was under construction, on 28.06.2014, one building, suddenly collapsed, as a result the workers were trapped inside the debris and around 61 people died and 27 persons were rescued with injuries. Therefore, it is the case of the prosecution that all the accused conspired together, violated the building norms and committed the offences under Sections 120(b), 304(ii) & 308 of IPC.

5. It is relevant to note that the prosecution has originally filed a final report as against 11 accused and thereafter, after the examination of 333 witnesses, they filed additional final report including the present petitioner. For inclusion of present petitioner, they examined around 15 witnesses in addition based on the above materials collected. The present petitioner is added as A5. In the original final report filed by the prosecution, the specific case of the prosecution is that only persons arrayed as A1 to A11 had actively participated in the crime. It is also the stand of the prosecution in the earlier final report that the present petitioner is only a Director of the Company and she is the wife of one of the accused. Her active involvement, either in the construction or in any of the alleged accusation is absent. Therefore, she was not included as an accused. Thereafter, after examining 15 other additional witnesses, she has been implicated as 5th accused.

6. The learned counsel appearing for the petitioner submitted that there is no material whatsoever available on record, for implicating A5 in the additional charge sheet. The very prosecution case itself indicates that except she being a Director, she is noway involved in any of the accusation. He further contended that merely because she is the wife of A2, she cannot be made as an accused for the serious offences of culpable homicide and unless there is any material pointing her as an accused to face the trial. Even in the materials collected by the prosecution at a later point of time, only two witnesses have spoken about the issue of licence in favour of the company and other witnesses have not even whispered about the present petitioner. In such view of the matter, the continuation of prosecution against A5 is a clear abuse of process of law and futile exercise.

7. The learned Government Advocate (Crl.side) appearing for the respondent submitted that 60 people died in the occurrence and there are serious violations in the building construction and this petitioner/A5 is also one of the Directors and merely



because she was not implicated in earlier charge sheet, that cannot be a ground to quash the proceedings against her. Hence, the learned Government Advocate objected for quashing the proceedings.

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8. Normally, this Court will be slow in exercising jurisdiction under Section 482 Cr.P.C to interfere with the final report or FIR or complaint, at the same time when the entire materials collected by the prosecution taken at its face value do not constitute any offence, still directing the persons to undergo the ordeal of trial will not serve any purpose. In such a situation, the Courts are not powerless to exercise jurisdiction under Section 482 Cr.P.C.

9. As rightly pointed out by the learned counsel appearing for the petitioner, the first charge sheet has been filed as against 11 accused and the prosecution in fact asserted in the charge sheet that all the accused one way or the other actively participated and their complicity with the crime was unearthed during the investigation and in fact, there are no materials collected by the prosecution to implicate this petitioner except the fact that she is the wife of one of the Directors. Now the additional charge sheet has been filed arraying this petitioner as A5. For such implication, some 15 witnesses have been relied upon by the prosecution. This Court is of the view that the evidentiary value of Section 161 Cr.P.C statement cannot be gone into at this stage. Even assuming that entire statement is proved, the same is not sufficient to prove the guilt of the accused for committing the act of culpable homicide under Section 304(ii) IPC. No doubt it is an unfortunate incident claimed many lives. Building collapse has taken away precious life of 61 labourers. The negligent act and careless management cannot be pardoned by this Court, but at the same time only persons who were responsible for the affairs of the company at the relevant point of time alone are responsible. Therefore, merely because the issue acquired sensationalism and death of huge number of persons itself cannot be a ground to prosecute the petitioner/accused for the sake of sensationalism. The petitioner herein except being a wife of Managing Director (A2), her role was never spoken by any of the witnesses and there is also no material collected by the prosecution.

10. Therefore, as far as this petitioner is concerned, this Court is of the view that there is no material available against her to prosecute her for the offence under Section 304(ii) IPC. The materials collected by the prosecution do not show that the petitioner acted with intention of causing death or that she had knowledge that her act is likely to cause death. When this petitioner never participated in the affairs of the company, merely because the building collapsed which claimed huge number



of life which attracted the media attention all over the world, she cannot be prosecuted without any material. This Court deems it appropriate to record that in this case, from the materials collected by the prosecution there are materials available against other accused, who have actively participated in the alleged violations. There were no materials to attribute either negligence or rashness on this accused besides she allegedly had no knowledge about the quality of the building, which may result in serious consequences.

11. In such view of the matter, taking note of the materials available against this petitioner, the prosecution initiated against this petitioner alone is quashed. The trial Court shall proceed against with the trial as against other accused in the original charge sheet and complete the trial and dispose of the case as expeditiously as possible. The prosecution is directed to make an endeavour to produce the witnesses on a day-to-day basis.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gpa/gba

To

1. The Judicial Magistrate,
Sriperumbudur.
2. The Additional Deputy Commissioner of Police,
Prohibition Enforcement Wing(East),
i/c, Special Investigation Team,
O/o The Commissioner of Police,
Vepery, Chennai - 600 007.
3. The Public Prosecutor,
High Court, Madras - 104.

+1cc to Mr.Ashokkumar, Advocate, S.R.No.64232 (14/02/2022)

Crl.O.P.No.19830 of 2017 &
Crl.M.P.Nos.11966 & 11967 of 2017

CA(CO)
RGA(28/12/2021)