



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.3765 of 2021

and

Crl.M.P(MD) No.2097 of 2021

WEB COPY

Gopinath

... Petitioner

Vs.

The Inspector of Police
Thoothukudi Central Police Station,
Thoothukudi District.
(Crime No.372 of 2018)

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.372 of 2018 on the file of the respondent police and quash the same.

For Petitioner

: Mr.V.Selvakumar

For Respondent

: Mr.S.Chandrasekar

Additional Public Prosecutor

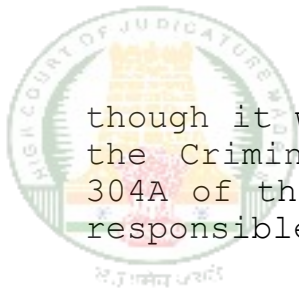
ORDER

The present petition is filed by the petitioner, seeking for a direction to quash the First Information Report in Crime No.372 of 2018 of Thoothukudi Central Police Station, Thoothukudi District.

2.The case of the prosecution is that the present petitioner / Chief Officer of Mutha Pearl Barge, without taking adequate precautions had allowed his subordinates to do annual maintenance work in the Barge, as a result of which, one Sam David Raja and one Sakthivel died and thus the petitioner committed offences punishable under Sections 287 and 304A of the Indian Penal Code.

2.Mr.V.Selvakumar, learned counsel for the petitioner submitted that though the present petitioner was the complainant, he has been subsequently arrayed as second accused. He also drew the attention of this Court, to a compromise memo recorded in a Civil Suit in C.S.No.184 of 2019, on the file of this Court. His further contention is that he is also one of the victims.

3.Mr.S.Chandrasekar, learned Additional Public Prosecutor, who accepts notice on behalf of the respondent, on instructions, would contend that the present petitioner is the Chief Officer of the Tug and Barge Vessel and he did not take precautionary measures, before allowing the persons entering into Barge and therefore, a First Information Report in Crime No.10 of 2018 was registered and



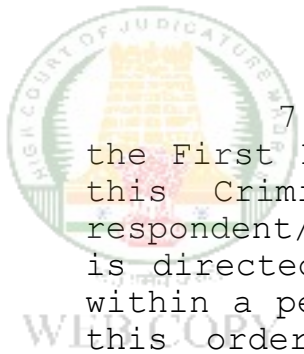
though it was originally registered under Section 174 of the Code of the Criminal Procedure, subsequently altered to Sections 287 and 304A of the Indian Penal Code and the petitioner / Chief Officer is responsible for the entire accident.

4. A perusal of the First Information Report prima facie shows that the offences punishable under Sections 287 and 304-A of the Indian Penal Code are made out against the petitioner.

5. It is settled law that the First Information Report and the consequent investigation cannot be quashed unless there is no offence spelt out on the basis of the allegations alleged and there is no question of considering the merits of the allegations contained in the First Information Report at this stage or testing the veracity of the allegations.

6. In the decision reported in **2020 SCC online SC 958 in Skoda Auto Volkswagen India Private Limited Vs. State of Uttar Pradesh and others**, it has been held thus :

"It is needless to point out that ever since the decision of the Privy Council in King Emperor vs. Khwaja Nazir Ahmed, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on. As cautioned by this Court in State of Haryana vs. Bhajan Lal, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint. In S.M. Datta vs. State of Gujarat, this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In S.M. Datta (supra), this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere."



7. In the circumstances, I do not find any reason to quash the First Information Report in Crime No.372 of 2018. Accordingly, this Criminal Original Petition is dismissed. However, the respondent/ Inspector of Police, Thoothukudi Central Police Station, is directed to conclude the investigation and file a final report, within a period of six months from the date of receipt of a copy of this order / uploading of the order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police
Thoothukudi Central Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.3765 of 2021
11.03.2021

KUN (CO)
KB (24.04.2021) 3P 3C