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CRL.O.P.(MD)NO.19926 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.19926 of 2021

Jeya Ganesh

... Petitioner /Sole Accused

Vs.

1. State rep. By,
The Inspector of Police,
SIPCOT police station,
Thoothukudi,
Thoothukudi District.

... 1st Respondent / Complainant

2. T.Pon Mariappan

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to admit the quash petition on file and to call for the records in C.C.No.1095 of 2017 on the file of the Judicial Magistrate No.III, Tuticorin, Tuticorin District and to quash the same.

For Petitioner : Mr.Senthil Sankaranathakumar
For R-1 : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

For R-2 : Mr.S.Balaji

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed to quash the proceedings in C.C.No.1095 of 2017 on the file of the Judicial Magistrate No.III, Thoothukudi.

3. The petitioner is facing trial for the offence under Section 304A of I.P.C.

4. The defacto complainant Pon Mariappan as well as his mother Parvathi were present in person before this Court and they submitted that compensation has been paid by the petitioner to Parvathi and



that they have no objection for quashing the impugned proceedings.

5. Since the case involves the offence under Section 304A of I.P.C., it cannot be quashed on the strength of compromise entered between the parties. Therefore, I called upon the petitioner's counsel to argue the case on merits.

6. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and submitted that the impugned proceedings deserves to be quashed.

7. Per contra, the learned Additional Public Prosecutor submitted that no case for quashing has been made out.

8. I carefully considered the rival contentions and went through the materials on record.

9. The deceased Thanga Mariappan was working as an employee in Sakthi Industries, Diraviya Rathina Nagar, Thoothukudi. On 03.04.2014, when Thanga Mariappan was working, an industrial accident took place and Thanga Mariappan passed away. When the deceased was operating what is known as iron scrap pressing machine, due to pressure variation, the accident had occurred. There is nothing on record to indicate that the machine was faulty or that the petitioner had not taken appropriate safety measures. Only if the petitioner can be said to have been acted in a rash and negligent manner, he can be tried for the offence under Section 304A of I.P.C. Since the basic ingredients of the offence under Section 304A of I.P.C. are absent, continuance of the impugned prosecution is not warranted.

10. Therefore, the impugned proceedings are quashed. This criminal original petition is allowed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

Encl: Photocopy of Compromise Memo attached.

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To:

1. The Judicial Magistrate No.III,
Tuticorin, Tuticorin District.

2. The Inspector of Police,
SIPCOT police station,
Thoothukudi,
Thoothukudi District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD) No.19926 of 2021

20.12.2021

MGJ(06.01.2022) 3P 4C