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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.Nos.10139 & 10161 of 2022

and

Crl.M.P.Nos.6005, 6010, 6022 & 6027 of 2022

Anand Swaroop

...Petitioner
in Crl.O.P.No.10139 of 2022

P.Sivaraman

...Petitioner
in Crl.O.P.No.10161 of 2022

Vs.

The Deputy Director-I,
Industrial Safety and Health,
T.S.No.47/1, Block No.6,
Thiru.Vi.Ka.Industrial Estate,
Near Metro Water Tank Rountana,
Guindy, Chennai - 600 032.

...Respondent in both Crl.O.Ps

Common Prayer:Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.Nos.8129 & 8130 of 2021, respectively now pending on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

For Petitioners: Mr.P.T.Ramkumar

For Respondent : Mr.A.Gokula Krishnan
Additional Public Prosecutor

C O M M O N O R D E R

These Criminal Original Petitions have been filed to call for the records in C.C.Nos.8129 & 8130 of 2021, respectively now pending on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2.The crux of the allegation in the private complaint is that, on 06.08.2021 at about 2.00 p.m, in the factory workshop while changing the welding electrode, an employee known as Sanju Kumar Manjhi, was holding the welding holder in left hand without gloves and holding electrode in his right hand wearing gloves. Since his hand was wet due to sweat, his finger had touched the tip of the electrode and fell down in the pitline



due to electrocution and thereafter, succumbed to the injuries.

3.The learned counsel for the petitioners submitted that originally the contract was awarded to M/s.Revannas Fabricare Services for the work of POH attention of Bio Digester Tanks including unloading, cleaning, loading in coaches at the premises of Carriage and Wagon Workshop, Perambur. The deceased employee was a contract worker working under the control of M/s.Revannas Fabricare Services and not under the supervision of officials of Carriage and Wagon works. The incident has occurred only due to the negligence committed by contract employee and the contractor has failed to effect proper supervision over safety of his employee while executing the work.

4.The learned counsel for the petitioners further submitted that the accident was intimated to the respondent on 07.08.2021 by submission of Form 18. The respondent visited their workshop on the same day and conducted inspection. A Show Cause Notice dated 03.09.2021 was issued by the respondent to the petitioners mentioning certain contraventions in Factories Act and Tamil Nadu Factory Rules. A detailed reply dated 14.09.2021 was given by the petitioners respectively to the respondent explaining the cause for accident and steps taken by the organization for maintaining safety norms for workers in our premises. The respondent has filed the present complaint without applying his mind to the explanation dated 14.09.2021 given by the petitioners in response to the Show Cause notice issued by the respondent. He further submitted that the complaint has been filed against the petitioners for the fault and negligence committed by the contractor who has executed the work without following the safety measures as per the Contract conditions. The deceased employee is not an employee of Carriage and Wagon Works, Southern Railway and he is engaged by the Contractor M/s.Revannas Fabricare Services. The said contractor is fully responsible for the supervision and adherence of safety norms of his own labour. The contractor has admitted their liability and taken steps for disbursement of compensation and other benefits.

5.The respondent herein has filed the complaint against the petitioners in their official capacity as Occupier and Manger of Carriage and Wagon Works. The contents of the complaint in C.C.Nos.8129 and 8130 of 2021 will prove that the petitioners have been impleaded as an accused by the respondent in their capacity as "Occupier" and "Manager" of Carriage and Wagone Works which role is performed by the petitioners during the course of discharge of their official duty.

6.Heard both sides and perused the materials available on record.



7. Now, it is submitted that the contractor has paid a sum of Rs.6,00,000/- as compensation to the deceased employee's family and also agreed to pay Rs.8,650/- as family pension every month to the parents of deceased employee.

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8. It is not the case of anyone that the accident was on account of rash or negligent act on the part of the present petitioner. Therefore, when the accident had taken place, while the contractor was in charge of the work, and he has also admitted his liability and has paid the compensation to the family of the deceased, merely because this petitioners are the officials over the place where the accident occurred, they cannot be prosecuted, that too, without any sanction being obtained.

9. Therefore, in the absence of any material against the petitioners, the complaint will not give rise to the prosecution against them. In the light of the above, this court is of the opinion that the proceedings are liable to be quashed.

10. Accordingly, these criminal original petitions are allowed and as a sequel, the proceedings in C.C.Nos.8129 & 8130 of 2021 now pending on the file of the learned Chief Metropolitan Magistrate Court, Egmore, Chennai are quashed. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.
2. The Deputy Director-I,
Industrial Safety and Health,
T.S.No.47/1, Block No.6,
Thiru.Vi.Ka.Industrial Estate,
Near Metro Water Tank Rountana,
Guindy, Chennai - 600 032.



3. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.P.T.Ramkumar, Advocate, S.R.No.36134, 36135

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and
CrI.M.P.Nos.6005, 6010, 6022 & 6027 of 2022

RSI (CO)
RGA (01/07/2022)