



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.NO.16857 OF 2019

&

CRL.MP.NO.9516 OF 2019

Mahaveera Textiles,
rep. by N.Jitendra Kumar,
No.92, Pondy Bazaar,
T.Nagar, Chennai-600 017

... Petitioner

Vs

1. The State, rep. by
The Inspector of Police,
R-4, Soundarapandiyanar Angadi Police Station,
T.Nagar, Chennai-600 017

2. K.Ramesh

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to quash the First Information Report in Crime no.951 of 2017 dated 07.04.2017 registered by the first respondent against the petitioner.

For Petitioner	:	Mr.Varun Srinivasan for M/s.NVS and Associates
For Respondent	:	Mr.R.Vinothraja, GA (crl.side) for R1

ORDER

This petition has been filed under Section 482 Cr.P.C., to quash the First Information Report in Crime no.951 of 2017 dated 07.04.2017 registered by the first respondent against the petitioner.

2.Heard the learned Counsel for the Petitioner and the learned Government Advocate(Crl.side) appearing for the first Respondent police.



3.Today, when the case is taken up for hearing, a representing counsel for the Petitioner seeks an adjournment on the ground that the Counsel on record is indisposed.

4.The learned Government Advocate(Crl.side) appearing for the first respondent submitted that this petition is filed, seeking to quash the FIR in Crime no.951 of 2017 pending on the file of R-4, Soundarapandiyanar Angadi Police Station, T.Nagar, Chennai-600 017. The learned Government Advocate(Crl.side) further submits that initially FIR was registered under Section 304(A) of IPC, investigation had been completed and a final report of the investigation had also been laid under Section 304(ii) of IPC before the Court of learned XVII Metropolitan Magistrate and same is taken on file vide PRC No.34 of 2021.

5.At the time of admission of the case, interim stay was granted for eight weeks.

6.Considering the submissions of the learned Government Advocate(Crl.side) that the investigation had been completed and the final report of the investigation has also been laid under Section 304(ii) of IPC before the Court of the learned XVII Metropolitan Magistrate and same is taken on file vide PRC No.34 of 2021, it is not a fit case for quashing the FIR. Considering the death of the persons, who were engaged in the maintenance work of the Air Conditioners, if the FIR is quashed, the valuable right of the legal heirs of the deceased to claim compensation will get affected as they are entitled for claiming compensation under the Fatal Accidents Act, 1977. The FIR is a mandatory requirement and therefore, the request of the representing counsel for the petitioner seeking an adjournment, cannot be entertained. Considering the fact that the charge sheet had been laid and in the light of the rulings of the of the Hon'ble Supreme Court in "State of Haryana versus Bhajan Lal, reported in 1992 Supp(1) SCC 335 the powers conferred under Section 482 Cr.P.C. cannot be exercised leniently. It is not a fit case to dismiss the petition at the stage of filing of the final report and taking cognizance of the matter by the learned Magistrate.

7.Hence, this petition is dismissed with a direction to the learned Magistrate to proceed with the trial and dispose of the same within a period of three months from today.

8.When the Court has dismissed this Criminal Original Petition, the learned Counsel for the Petitioner has filed reported rulings viz., ''Jeppiar and Others Vs. The State of Tamilnadu and Others'' reported in (MANU/TN/2257/2012), in the



case of ''Mahadev Prasad Kaushik Vs. State of U.P. and Others'' reported in (MANU/SC/8125/2008) and in the case of ''Keshub Mahindra Vs. State of M.P.'' reported in (MANU/SC/1236/1996), seeking to quash the FIR. In the reported rulings cited by the learned Counsel for the Petitioner, the name of the petitioner therein does not find a place.

9. The learned Government Advocate (Crl.side) submitted that the defacto complainant has not mentioned the name of the petitioner therein in the FIR. Therefore, the FIR was quashed.

10. Here, the learned Counsel for the Petitioner submits that the FIR has been registered as an accident occurred in the premises of the petitioner. The only defence of the petitioner is that the petitioner is the owner of the shop. The deceased person was engaged in maintenance work of the Air Conditioner Machine and while attending the maintenance work, he fell down and succumbed to the injuries. This does not help to quash the FIR. The FIR is necessary to proceed with the accidental claims by the legal heirs of the deceased, which is mandatory. On that score only, this Criminal Original Petition has been dismissed. The valuable point raised by the petitioner herein is to be considered only during the trial, if at all the investigation proceeds in laying of the final report, the Investigating Officer has the powers to collect the materials. If there are no materials available incriminating the petitioner, the petitioner need not worry and if at all final report is laid, the petitioner can agitate the same before the learned Judicial Magistrate/trial Court and while exercising discretionary power vested with the learned Magistrate regarding the valuable right of the accused to defend at the stage of trial, while adducing evidence. During investigation, the Investigating Officer has discretion to remove the name of any of the accused, if there are no materials incriminating her/him in the case. In such circumstances, the investigation will be closed as a ''mistake of fact'' or the other similar grounds.

11. In the light of the above, the petitioner cannot seek to quash the FIR. Therefore, this petition is dismissed, with a direction as indicated above. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
R-4, Soundarapandiyanar Angadi Police Station,
T.Nagar, Chennai-600 017

2. The learned XVII Metropolitan Magistrate,
T.Nagar, Chennai-17

3. The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.NVS and Associates, Advocate, S.R.No.27039

Cr1.OP.No.16857 of 2019

MT (CO)
RLP (12/05/2022)