



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.01.2022

Coram:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Crl.O.P.No.28227 of 2017
and
Crl.M.P.Nos.16040 and 16041 of 2017
and
Crl.O.P.No.6508 of 2018
and
Crl.M.P.Nos.3335 and 3336 of 2018

Crl.O.P.No.28227 of 2017

S.Vijay Balan, M/A 40 years (A-2)
S/o Santhanam,
Project Manager,
Elevator India Pvt.Ltd.,
Add No.301, Rajaji Street,
Thirumangalam,
Chennai 600 040.

.. Petitioner/Accused

/versus/

1.State Rep.by:
The Inspector of Police,
E-3, Minjur Police Station,
Minjur, Chennai.
(Crime No.189/2016)

..Respondent/Complainant

2.M.Vadivalagan

..De-facto Complainant/Respondent

Prayer in Crl.O.P.No.28227 of 2017 This Criminal Original
Petition is filed under Section 482 of Cr.P.C., to call for the
records in C.C.No.125 of 2017 on the file of the Judicial
Magistrate Court-II, Ponneri and quash the same as against the
petitioner.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondents: Mr.S.Vinoth Kumar
Govt.Advocate (Crl.Side) for R1

Mr.D.Vairamurthy for R2



Crl.O.P.No.6508 of 2018:

Prakash, M/A 31 years (A-1)
S/o Venkatesan,
Site Manager,
M/s Kone Elevator India Pvt. Ltd.,
Add No.7/23, Subrayan Street,
Old Washernmenpet,
Chennai 600 021.

.. Petitioner/Accused

/versus/

1.State Rep.by:

The Inspector of Police,
E-3, Minjur Police Station,
Minjur, Chennai.
(Crime No.189/2016)

..Respondent/Complainant

2.M.Vadivalagan

..De-facto Complainant/Respondent

Prayer in Crl.O.P.No.6508 of 2018: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.125 of 2017 on the file of the Judicial Magistrate Court-II, Ponneri and quash the same as against the petitioner.

For Petitioner : Mr.R.C.Paul Kanagaraj
for Mr.R.K.Ramesh

For Respondents: Mr.S.Vinoth Kumar
Govt.Advocate (Crl.Side) for R1

Mr.D.Vairamurthy for R2

COMMON ORDER

(These cases have been heard through video conferencing)

These petitions are filed to quash the charge sheet in C.C.No.125 of 2017 pending on the file of the Judicial Magistrate No.II, Ponneri.

2.The crux of the charge sheet is that, the accused are the employees of M/s Kone Elevator India Private Limited and the first accused is the Site Engineer and the second accused is the Project Manager. On 26.04.2016, M/s Kone Elevator India Private limited engaged a contract work for NTCL-BHEL. While fixing the elevator, the accused have not provided any safety equipments to the deceased, as a result, he was electrocuted, thereby, the accused committed the offence under Section 304(A) of IPC.



3.The learned counsel appearing for the petitioners submitted that, these petitioners have been implicated merely on the basis of the accident. They are no way connected with the accident. Infact, the deceased himself is a Sub Contractor with M/s Kone Elevator India Private Limited. There is a contract in the year 2015 itself between themselves. All the safety measures have to be taken care of by the deceased being a Sub Contractor and also placed the Sub Contract before this Court and at any event, the entire prosecution materials do not indicate or sufficient to constitute the offence under Section 304(A) of IPC and it is also submitted that, despite the fact that the Sub Contractor himself invited the accident, the compensation has also been paid to the mother, who is the only legal heir of the deceased.

4.The learned Government Advocate(crl.side) appearing for the first respondent submitted that, the compensation has also been paid to the only legal heir, mother of the deceased. The criminal prosecution has been filed only against the employees.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6.On a perusal of the entire materials, the statements relied upon by the prosecution only indicate that all of them are hearsay and had no direct knowledge about the alleged accident. Therefore, in the absence of any materials to show that the death was caused due to either by rash or negligent act of the accused, continuation of prosecution is nothing but a futile exercise. The fact that the petitioners are only the employees of M/s Kone India Private Limited, is also not disputed. The materials collected by the prosecution do not even indicate that these petitioners were directly responsible for the said accident.

7.Therefore, this Court is of the view that, the entirety of the statements and the charge sheet even taken as a face value, it does not constitute the offence. Hence, the charge sheet in C.C.No.125 of 2017 pending on the file of the Judicial Magistrate Court-II, Ponneri, Chennai is quashed. Accordingly, these Criminal Original Petitions are ordered. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



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To

1.The Judicial Magistrate Court No.II, Ponneri,
Chennai.

2.The Inspector of Police,
E-3, Minjur Police Station, Minjur, Chennai.

3.The Public Prosecutor, High Court,
Madras.

+3cc to Mr.R.K.Ramesh, Advocate, S.R.No.1552

+3cc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.1551

Crl.O.P.No.28227 of 2017

and

Crl.M.P.Nos.16040 and 16041 of 2017

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Crl.M.P.Nos.3335 and 3336 of 2018

GPL (CO)

SB(16/02/2022)