



WEB COPY

Crl.O.P.(MD)No.20177 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 04.02.2022
PRONOUNCED ON: 21.04.2022
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20177 of 2021
and
Crl.M.P. (MD)No.11405 of 2021

1.M.Muruganantham

2.H.Suresh Agarwal

... Petitioners / Accused Nos.1 & 2

Vs

1.State through

The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.
(In Crime No.164/2021)

... 1st Respondent / Complainant

2.K.Thavamani

... 2nd Respondent /
Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the impugned FIR in Crime No.164 of 2021 dated 18.09.2021 on the file of the first respondent police and to quash the same as illegal.

For Petitioner : Mr.G.Solairaja

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl.side)

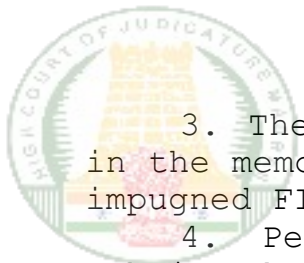
For R2 : Mr.J.Yesu Subanath

ORDER

This Criminal Original Petition has been filed for quashing the FIR in Crime No.164 of 2021 registered on the file of the first respondent for the offences under Sections 287, 337, 304(2) of IPC.

2. The defacto complainant is the wife of the deceased. The accused and the defacto complainant have entered into a compromise and a sum of Rs.10,00,000/- was paid to her before the District Legal Services Authority. A joint compromise memo dated 16.12.2021 has also been filed. Since this case involves death of an individual, FIR cannot be quashed on the strength of the compromise between the parties. I therefore called upon the counsel to argue the case on merits.

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3. The learned counsel reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned FIR.

4. Per contra, the learned Government Advocate (crl.side) submitted that no case for quashing has been made out.

5. The learned Government Advocate (crl.side) further pointed out that apart from the deceased, there is an injured person by name Malaisamy and that he does not appear to be compensated. In response thereto, the petitioner's counsel firmly states that the said Malaisamy was paid a sum of Rs.2,00,000/- and that Malaisamy has also no objection for quashing the impugned FIR.

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

7. The second petitioner is running a company for polishing granite stones and making them into marketable commodities. The first petitioner is working as Manager. On 17.09.2021, one Krishnakumar and Malaisamy were engaged in loading the granite stones. In the process, heavy stones fell on the said Krishnakumar and he died as a result of the injuries. Another load man by name Malaisamy was also injured. Hence, Crime No.164 of 2021 was registered on the file of the first respondent based on the information lodged by the second respondent. The offence under Section 304(2) of IPC will be attracted only if the accused had caused bodily injuries to the victim either intentionally or with knowledge of the consequences. In this case, the accused have not done anything. They had only instructed the load man to load the granite stones. What the load man did was the part of the load work. Due to negligence on the part of the load man, the occurrence had taken place. The petitioners have not in any way contributed to the occurrence. Therefore, none of the ingredients of the offences are present in this case. What happened was a pure accident. This is not a case which warrants prosecution.

8. Looked at from any angle, the registration of the impugned FIR is not warranted. The impugned FIR is quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

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.

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To

1. The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.

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

+1 CC to M/s.G. SOLAI RAJA, Advocate (SR-20402[F] dated
22/04/2022)

Crl.O.P (MD) No.20177 of 2021
21.04.2022

MGJ(04.05.2022) 3P 4C