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Crl.O.P.No. 8358 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 8358 of 2021
and Crl.M.P.Nos. 5505 & 5506 of 2021

1. Balasubramaniam
2. Maria Joseph

.... Petitioner

Vs

1. State Rep. by
Inspector of Police,
S-12, Chitlappakkam Police Station,
Chennai – 64.
Crime No.784 of 2015

2. Mugarudeen Shaik Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to C.C.No.329 of 2015 pending on the file of the Judicial Magistrate, Tambaram and quash the same.

For Petitioner : Mr.S.Manuraj
For R1 : Mr.L.Baskaran
Government Advocate (Crl.Side)
For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.329 of 2015 pending on the file of the Judicial

Magistrate, Tambaram.



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2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

3. The case of the prosecution is that on 10.05.2015 at about 20.30 hrs, the second respondent lodged a complaint and stated that she is working under the first petitioner's construction company. The second petitioner is a supervisor. On 10.05.2015 at about 9.00 hrs when she went to work with one Jakkar Sheikum and doing her work, the second petitioner was supervising their work. The second respondent and the said Jakkar Sheikum had oftently complained about the EB Wire near by the work station to the petitioners. On the date of occurrence, the said Jakkar Sheik had worked in that place, at that time EB wire touched him and he fell down. Thereafter, he was admitted in the Government Hospital, Chrompet and he died. Hence, the complaint.

4. On the complaint, the first respondent registered FIR in Crime No.784 of 2015 for the offences under Sections 337, 304(A) of IPC as against the petitioners. After completion of investigation, the first



respondent filed final report and the same has been taken cognizance in C.C.No.329 of 2015 on the file of the Judicial Magistrate, Tambaram.

5. A perusal of the records reveals that there are totally two accused. Even according to the prosecution, the deceased and another were doing work in first floor, while levelling the wall by his aluminium scale, they, without noticing the electrical line, touched the electrical line by aluminium scale. Therefore, they were electrocuted and one person died and one person sustained injury. The charge levelled is that, without any safety measures done by the petitioner, the accused and another were directed to construct the wall. It is not a case of not providing any safety measure. There was a wooden stair case. The deceased and another person were standing on the wooden stair case and constructing the wall by levelling the wall. Without knowing, they themselves touched the electrical line by aluminium scale. Therefore, they were electrocuted. Unfortunately, one person died. That apart, the wife of the deceased was compensated by the owner of the building.

6. Insofar as the petitioner is concerned, the first petitioner is a Contractor and the second petitioner is a Supervisor. Admittedly,



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they were not in the place of occurrence. According to them, only on the negligence on the part of the deceased, the accident had taken place. Therefore, there is no material available in order to prosecute the petitioners for the offences under Sections 337, 304(A) of IPC. The entire proceedings cannot be sustained as against the petitioners and it is liable to be quashed.

7. In view of the above, the proceedings in C.C.No.329 of 2015 pending on the file of the Judicial Magistrate, Tambaram, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

06.11.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Lpp
To

1. The Judicial Magistrate,
Tambaram.

2. The Inspector of Police,
S-12, Chitlappakkam Police Station,
Chennai – 64.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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