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CrI.O.P No.20293 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **11.01.2023**

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.20293 of 2021
and CrI.M.P. No.11049 of 2021

1. Nehemiah Vijay Sagar
2. Gosala Rajeswar Reddy

... Petitioners

Vs.

1. The State represented by
Inspector of Police,
TR Pattinam P.S., Karaikal.
Crime No.85/2021

2. Vennila

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to FIR registered as Crime No.85 of 2021 on the file of the first respondent and to quash the same as against the petitioners herein.

For Petitioners : Mr.S.Aravindan
for M/s.Fox Mandal & Associates

For Respondent-1 : Mr.Raj Sharath
for V.Balamurugane
Public Prosecutor (Puducherry)

R2 : No appearance



ORDER

This Criminal Original Petition has been filed to call for the records relating to FIR registered as Crime No.85 of 2021 on the file of the first respondent and to quash the same as against the petitioners herein.

2. On 28.09.2022, this Court has passed the following order:

“The case pertains to the FIR registered in Crime No.85 of 2021 on the file of the TR Pattinam Police Station, Karaikal.

2. The case of the prosecution is that on 17.09.2021 at about 12.45 hours, the victim by name Ganeshamurthy was working inside the vessel and he was collecting the residual cargo. During that course, a lump of cargo suddenly fell on the deceased and he sustained injuries. Despite he was taken to the hospital for treatment, he succumbed to his injuries. Subsequently, a case has been registered on the complaint given by the mother of the deceased. The petitioners are the accused No.3 and 4, who are said to be the Chief Operating Officer and Assistant Vice President respectively of Karaikal Port Private Limited.

3. The learned counsel for the petitioners submitted that the petitioners have got nothing to do with the alleged occurrence and they are in no way connected with the safety measurements that has to be taken inside the vessel and the deceased himself is a load man, who had come to the ship



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knowing pretty well that his job is collection of residual cargo.

4. Mr.V.Balamurugane, learned Public Prosecutor, Puducherry submitted that investigation is almost complete and sought time for reporting the present status of the case.

5. In view of the same, list the matter on 20.10.2022.”

3. In compliance thereof, the learned Public Prosecutor (Puducherry) filed a copy of statement and other documents collected so far during investigation.

4. The learned counsel for the petitioner submitted that the petitioner being the Vice President and Chief Operating Officer of the Karaikal Port Private Limited cannot be held criminally liable for the omissions if any on the part of the first and second accused in providing safety equipments for the workers; even for any remote reasons, if there is liability on the part of the company, the company ought to have been impleaded as an accused and the petitioner cannot be arrayed as an accused in their personal capacity.

5. The incident report which was submitted by the General Manager of Operation was also pointed out by the learned counsel for the petitioners. From the incident report it is learnt that the deceased worker had also owned



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the necessary safety equipments at the time of occurrence. But in the statements of the co-workmen, it is stated that the deceased was not given with any safety equipments and he was not wearing the same at the time of the occurrence. Apart from the fact whether the deceased was wearing the safety equipments, he should also be investigated and found out whose responsibility was it to provide safety equipments to the workers when the first and second accused have been engaged by the Karaikal Port Limited under the Labour contract. These facts can be known by the production of terms of the contract between the labour contractor and the company and any other relevant terms in this regard.

6. Obviously the occurrence had taken place inside a vessel which was docked at the Karaikal Port. The deceased is not a stranger but he was a worker who was engaged in removing the residual urea remained in the Cargo holder. Had it been the case of the prosecution that the incident had occurred elsewhere, it would have been appropriate to come to an immediate conclusion that the accused 3 and 4 are not responsible in any manner. However, it is seen that the petitioners have been implicated as accused 3 and 4 in their individual capacity which is inappropriate.



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7. Since investigation is in the mid way and certain vital facts should be found out in the line as stated above, it is premature to come to any conclusions. Hence, I feel it is appropriate to allow investigation to go on and let the investigative agency have the liberty of collecting all the materials including the contract if any between the first and second petitioners with the company and file a comprehensive final report.

8. With these observations, this Criminal Original Petition is disposed.

Connected miscellaneous petition is closed.

11.01.2023

Index : Yes/No
Speaking Order : Yes / No
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To:

1. The Inspector of Police,
TR Pattinam P.S., Karaikal.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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