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CrI.O.P.No.22495 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM:

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

CrI.O.P.No.22495 of 2021  
and CrI.M.P.No. 12220 of 2021

1. G.Ramakrishnan  
Former Executive Director (SME & Conveyor),  
M/s. Neyveli Lignite Corporation, Mine -II,  
(Presently M/s. NLC India limited),  
Presently residing at No. 60 & 61,  
Udaya Sooriyan Nagar,  
Guduvancherry,  
Kancheepuram – 603 202.
2. M.Rajendrababu  
Deputy General Manager,  
(Then ACM/Civil Mine-II)  
M/s. Neyveli Lignite Corporation,  
(Presently M/s. NLC India Limited)  
P.O., Neyveli- 607 802.
3. R.Senthil Kumar,  
Chief Manager,  
(Then Deputy Chief Engineer (Electricals),  
M/s. Neyveli Lignite Corporation, Mine- II,  
(Presently M/s. NLC India Limited),  
P.O.,Neyveli- 607 802.

... Petitioners

Vs.

The Deputy Director of Mines Safety,  
Chennai Region,  
Old No. 46/New No. 5, 2<sup>nd</sup> Street,  
Block 'AA', Anna Nagar,  
Chennai – 600 040.

... Respondent



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**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the entire records relating to C.C.No.233 of 2012 on the file of the Learned District Munsif-Cum-Judicial Magistrate, Neyveli and quash the same.

For Petitioners : Mr.N.Nithianandam

For Respondent : Mr.D.Simon (CGSC)

### **ORDER**

This petition has been filed to quash the proceeding in C.C No. 233 of 2012 on the file of the Learned District Munsif-Cum-Judicial Magistrate, Neyveli. The petitioners are arrayed as accused 1, 3 and 4. The respondent filed a private complaint alleging that on 19.04.2012 at about 12.30 hours in the Neyveli Lignite Corporation Mine-II due to mechanical failure, an industrial accident took place at S4 Conveyor of Surface Bench System in which a Contract Worker, namely, Shri.Kuppusamy met with an accident and he succumbed to the injuries.

2. At this juncture, the petitioners were in charge of the Mines and they are responsible for the accident. Thereafter, it was intimated to the respondent as per the terms of the provisions of the Mines Act, 1952. On receipt of the information, the respondent conducted an enquiry on various dates and



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concluded that the petitioners had failed in their duties and contravened the regulations 190 read with Regulation 50(a) of Coal Mines Regulations, 1957.

Thereafter, the petitioners were served with show cause notice dated 19.07.2012.

3. Not satisfied with the explanation submitted by the petitioners, a detailed enquiry was conducted. On inspection it revealed that while the conveyor was started, during changing of its rollers, one out of five person engaged for the said job could not escape from the bottom belt, hauled to a distance, received serious bodily injuries near the tail end and thrown away from the belt, which proved fatal on way to the hospital.

4. That apart the following contraventions were found during the enquiry:-

*“1. In contravention of provisions of Regulation 37(1) of Coal Mines Regulations, 1957 read with Section 18(4) of the Mines Act, 1952, the Accused No.1 (Shri G.Ramakrishnan, the then Executive Director (SME & Conveyor) M/s. Neyveli Lignite Corporation Ltd.) failed to make the system for proper supervision, co-ordination and communication between different groups when engaged simultaneously at different places for maintenance or same conveyance and thus failed to provide for the safety and discipline of person employed for maintenance of the conveyor in the mine.*



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2. *In contravention of provisions of Regulation 36(1)(a) read with Regulation 41(4) of Coal Mines Regulations, 1957 the Accused No.2 (Shri Syed Abdul Fateh Khalid, the then Mine Manager, Neyveli Lignite Mine-II) failed in his duties to provide supervision through an official or competent person to ensure safe working during the maintenance work undertaken by roller changing group at the belt conveyor.*

3. *In contravention of provisions of Regulation 190 read with Regulation 50(a) of Coal Mines Regulations, 1957, the Accused No. 3 (Shri R.Senthil Kumar, the then Dy. Chief Engineer (Electrical) Neyveli Lignite Mine -II) failed in his duties by making the emergency pull chord switches along the conveyour dysfunctional, when person were working on the belt conveyor for its maintenance.*

4. *In contravention of Regulation 40(2) of Coal Mines Regulations, 1957 the Accused No. 4 (Shri M.Rajendrababu, the then Additional Chief Manager (Civil), Neyveli Lignite Mine -II), failed in his duties by engaging the persons for changing of rollers of the belt conveyor without seeing that the persons under his charge had understood and would carry out their duties properly.*

*The above contraventions constitute offences which are punishable under Section 72A and 73 of the Mines Act, 1952 and the accused were found liable for the same.*



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*As the above mentioned contraventions resulted in loss of life to Shri P.Kuppusamy, Contrator worker, aged about 43 years the accused persons are further severally & vicariously liable for punishment under Section 72-C(1)(a) of the Mines Act, 1952.”*

5. In fact during the enquiry all the accused persons were found responsible for the contravention which proved fatal and caused death of a person. They were issued show cause notice and after receipt of the reply, the respondents filed the private complaint under Section 200 of Cr.P.C for the offences punishable under Sections 72A, 72-C(1)(a) and 73 of the Mines Act, 1952.

6. The learned counsel for the petitioners would submit that the alleged contraventions is punishable with imprisonment for a term of six months under Section 72A of the Mines Act, 1952. Section 72C of the Mines Act, 1952 provides punishment with two years or with fine. Section 73 of the Mines Act, 1952 provides punishment for three months or with fine.

7. The complaint was lodged in the year 2012 and the same was taken cognizance immediately by the Trial Court. However, since 2013, there is no progress in the Trial. In fact, the first and second petitioners have already retired from their service. It is pending for the past 11 years without



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examining even one witness. All the petitioners are under going ordeal of the trial for the past 11 years. In fact, the family of the deceased was settled with solatium amount of Rs. 1,25,000/- in the year 2012 along with the insurance amount of Rs.5,50,000/- and permanent employment was given to the son of the deceased with all amenities such as residential quarters, medical and other facilities.

8. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India passed in ***Writ Petition (C) No. 1128 of 1986, dated 01.05.1996, in the case of Common Cause a Registered Society through its Director Vs. Union of India***, where the cases pending in Criminal Courts for more than two years, held as follows:-

*“2(a) Where criminal proceedings are pending regarding traffic offences in any criminal court for more than two years on account of non-serving summons to the accused or for any other reason whatsoever, the court may discharge the accused and close the cases.*

*2(b) Where the cases pending in criminal courts for more than two years under Indian Penal Code or any other law for the time being in force are compoundable with permission of the court and if in such cases trial have still not commenced, the criminal court shall, after hearing the public prosecutor and other parties*



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*represented before it or their advocates, discharge or acquit the accused, as the case may be, and close such cases.*

*2(c) where the cases pending in criminal courts under Indian Penal Code or any other law for the time being in force pertain to offences which are non-cognizable and bailable and if such pendency is for more than two years and if in such cases trials have still not commenced, the criminal court shall discharge or acquit the accused, as the case may be, and close such cases.*

*2(d) Where the cases pending in criminal Courts under Indian Penal Code or any other law for the time being in force are pending in connection with offences which are punishable with fine only and are not of recurring nature, and if such pendency is for more than one year and if in such cases trial have still not commenced, the criminal court shall discharge or acquit the accused, as the case may be, and close such cases.*

*2(e) Where the cases pending in criminal courts under Indian Penal Code or any other law for the time being in force are punishable with imprisonment upto one year, with or without fine and if such pendency is for more than one year and if in such cases trials have still not commenced, the criminal court shall discharge or acquit the accused, as the case may be, and close such cases.*



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*2(f) Where the cases pending in criminal courts under Indian Penal Code or any other law for the time being in force are punishable with imprisonment upto three years, with or without fine, and if such pendency is for more than two years and if in such cases trials have still not commenced, the criminal court shall discharge or acquit the accused, as the case may be, and close such cases.*

9. The Hon'ble Supreme Court of India also held that the above directions shall not apply to the following cases. Therefore the above directions are not applicable to the case on hand. That apart, perusal of the counter statement filed by the respondent revealed that due to various factors such as non-availability of Presiding Officer, Public Prosecutor and due to COVID, the trial could not be completed by the Trial Court. Therefore, the grounds raised by the petitioners cannot be considered to quash the proceedings, since there are specific allegations made against all the accused persons and there are materials to show and attract the contraventions under Section 72A, 72C and 73 of the Mines Act, 1952.

10. In view of the above discussion, this Court is not inclined to quash the proceedings C.C No. 233 of 2012 on the file of the Learned District Munsif-Cum-Judicial Magistrate, Neyveli. Considering the age of the



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petitioners, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application.

However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to complete the trial, within a period of three months from the date of receipt of a copy of this Order.

11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

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Internet : Yes / No  
Index : Yes / No  
Speaking / Non Speaking order  
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**G.K.ILANTHIRAIYAN, J.**

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- To
1. The District Munsif-Cum-Judicial Magistrate, Neyveli.
  2. The Deputy Director of Mines Safety  
Chennai Region,  
Old No. 46/New No. 5, 2<sup>nd</sup> Street,  
Block 'AA', Anna Nagar,  
Chennai – 600 040.
  3. The Public Prosecutor,  
High Court, Madras.

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