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Crl OP No. 22965 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.22965 of 2021 and
Crl.M.P.Nos.12589 and 12590 of 2021

1.Veeraragavan

2.Kumaragurunathan

3.Kadharkhan

4.Balasubramaniam

...Petitioners/A1 to A4

Versus

1. State Rep by
Inspector of Police,
SIPCOT Police Station
Vellore – 632 403.
(Crime No.414 of 2019)

2.Mr.Hari Pradhan

3.Mrs.A.Gandhimathi

...Respondents

(* R2 and R3 Suo-motu impleaded as
per order in Crl.M.P.Nos.12589 &
12590 of 2021 in Crl.O.P.No.22965
of 2021 dated 08.12.2021)



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PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and to quash the chargesheet in C.C.No.49 of 2021 pending trial on the file of the District Munsif cum Judicial Magistrate at Ranipet.

For Petitioners	: M/s.Adithya Varadarajan
For R1	: Mr. R.Vinoth Raja Government Advocate (Crl.Side)
For R2	No Appearance
For R3	Mr.C.Gunasekaran

ORDER

The petition is to quash the final report for the alleged offences under Sections 287 and 304 (A) of the Indian Penal Code on the file of the learned District Munsif Cum Judicial Magistrate, Ranipet.

2. It is alleged in the final report that the first petitioner was working as a Plant Head in the Gujarat Enviro Protection & Infrastructure Limited (GEPL), the second petitioner was working as a Production Head in the Company, the third petitioner was working as a Maintenance Head in the Company and the fourth petitioner was working as a Shift In-charge in the Company; that the Company is engaged in the processing of Hazardous Waste and producing alternate fuel and provides the same for cement, steel



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and various other manufacturing industries; that one Praveen Kumar was working in the Maintenance department in the Company; that one Dilip Pradhan was working as a contract worker appointed through a contractor one C.Raghu in the Company; that both of them were employed in the maintenance department to conduct routine check on the working of various machineries; that on 28.09.2019, at about 6.45 a.m., when they were working in the pit area in which industrial wastes were dumped and were doing maintenance work with regard to machineries, there was a fire accident since the petitioners did not take proper steps to ensure safety and prevent the fire accident; and that both the employees died in the fire accident.

4. Mr.Adithya Varadarajan, the learned counsel for the petitioners submitted that the deceased persons died due to a fire accident; that there is nothing in the impugned final report to show that the fire accident took place on account of the negligence or rashness of the petitioners, except for stating that the proper safety measures were not taken to prevent the fire accident; that there is nothing in the impugned final report to state as to what were the safety measures that were not taken by the petitioners; that the act of the petitioners was neither the “*causa causans*” nor would



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amount to “gross negligence” which are necessary to prosecute the petitioners for the alleged offences. Hence, he prayed for quashing of the final report.

5.Mr.R.Vinoth Raja, the learned Government Advocate (Crl.Side) for the first respondent, *per contra* submitted that the allegations in the final report have to be adjudicated only before the Trial Court; that the petitioners were responsible for the fire accident and hence, the question as to whether they were guilty of negligence is a matter for trial and cannot be adjudicated in this quash petition. Hence, he prayed for dismissal of the quash petition.

6. Though notice has been served on the second respondent, none has entered on behalf of him.

7. Mr. C.Gunasekaran, the learned counsel for the third respondent submitted that she has received a compensation of Rs.16,31,875/- (Rupees Sixteen Lakhs Thirty One Thousand Eight Hundred and Seventy Five only). He had also filed an affidavit expressing no objection for quashing the proceedings.



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8. It is also seen from the records that relatives of other victim were also settled a sum of Rs.6,50,000/- (Rupees Six Lakhs Fifty Thousand only) out of which, Rs.5,00,000/- (Rupees Five Lakhs only) was paid by the company and remaining Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) was paid by a contract employee. The learned Government Advocate (Crl.Side) on instruction submits that the compensation amount was paid to the family of the victims.

9. This Court on perusal of impugned final report finds that there is nothing in the impugned final report to suggest that the fire accident occurred due to the negligence of the petitioners. The materials filed in support of the final report suggest that the victims were provided with safety gears and the petitioners cannot be held liable for causing the death of the victims. This Court has repeatedly held that in order to prosecute a person unless his act is the *causa causans* (i.e.,) immediate cause for the accident, he cannot be charged for the offence under Section 304-A of I.P.C. In this regard, the Judgment of the Hon'ble Apex Court in ***Sushil Ansal vs. State Through Central Bureau of Investigation*** reported in **(2014) 6 SCC 173** would apply to the facts of the case. The relevant



portions of the said Judgment are extracted below for better understanding:

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“81.Suffice it to say that this Court has in Kurban Hussein's case accepted in unequivocal terms the correctness of the proposition that criminal liability under Section 304 – A of the I.P.C., shall arise only if the prosecution proves that the death of the victim was the result of a rash or negligent act of the accused and that such act was the proximate and efficient cause without the intervention of another person's negligence. A subsequent decision of this Court in Suleman Rahiman Mulani vs. State of Maharashtra has once again approved the view taken in Omkar Ramprathap case that the act of the accused must be proved to be the causa causans and not simply a causa sine qua non for the death of the victim in a case under Section 304 – A I.P.C.,. To the same effect are the decisions of this Court in Rustom Sherior Irani v.State of Maharashtra, Bhalchandra v.State of Mahrashtra, Kishan Chan v.State of Haryana, S.N.Hussain v.State of A.P., Ambalal D.Bhatt v.State of Gujarat



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and Jacob Mathew case. ”

“82. To sum up : for an offence under Section 304 – A to be proved it is not only necessary to establish that the accused was either rash or grossly negligent but also that such rashness or gross negligence was the causa causans that resulted in the death of the victim.

“83.As to what is meant by causa causans we may gainfully refer to Black's Law Dictionary (5th Edition) which defines that expression as under:

“Causa causans – The immediate cause; the last link in the chain of causation.”

The Advance Law Lexicon edited by Justice Chandrachud, former Chief Justice of India defines causa causans as follows:

“Causa causans – The immediate cause as opposed to a remote cause; the 'last link in the chain of causation'; the real effective cause of damage.”

84.The expression “proximate cause” is defined in the 5th edition of Black's Law Dictionary as under:



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“Proximate cause – That which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces injury and without which the result would not have occurred. Wisiniewski v. Great Atlantic & Pacific Tea Co., A2d at p. 748. That which is nearest in the order of responsible causation. That which stands next in causation to the effect, not necessarily in time or space but in causal relation. The proximate cause of an injury is the primary or moving cause, or that which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury and without which the accident could not have happened, if the injury be one which might be reasonably anticipated or foreseen as a natural consequence of the wrongful act. An injury or damage is proximately caused by an act, or a failure to act, whenever it appears from the evidence in the case, that the act or omission played a substantial part in bringing about or actually causing the injury or damage; and that the injury or damage was either a direct result or a



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*reasonably probable consequence of the act
or omission.”*

10. Further, this Court finds even assuming that the petitioners were guilty of the negligence unless, it is shown that they were guilty of gross negligence, they cannot be held liable for criminal negligence. There is nothing in the impugned final report to suggest that they were guilty of “gross negligence”. Hence, the impugned final report against the petitioners is unsustainable and liable to be quashed. It is also seen admittedly that the victims have been compensated. The third respondent had also no objection in quashing of the final report. For the aforesaid reasons, this Court is inclined to quash the impugned proceedings.

11. For all the above reasons, the Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

28.06.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

1. The District Munsif cum Judicial Magistrate,
Ranipet.
2. The Inspector of Police,
SIPCOT Police Station
Vellore – 632 403.
3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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SUNDER MOHAN, J

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