



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.24733 of 2019

And

Crl.M.P.Nos. 13159 & 13161 of 2019

K.Kumar

... Petitioner /Sole Accused

Vs

1. The State Rep. by
The Inspector of Police
F-2, Sipcot Police Station
Gummidipoondi.

... 1st Respondent/Complainant

2. M.Baskar

... 2nd Respondent/Defacto-Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.433 of 2019 in Crime No. 137 of 2017, pending on the file of District Munsif Cum Judicial Magistrate, Gummidipoondi and quash the same.

For Petitioner : Mr. S.Bharath

For 1st Respondent : Mr.S.Balaji
Government Advocate (Crl. Side)

**ORDER**

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The petition is to quash the final report filed under Sections 287 & 304(A) of IPC.

2. It is alleged that the defacto complainant's son was employed in the company in which the petitioner is working as HR Manager. On 30.04.2017, the petitioner's son went to the company and he was made to operate fork lift. However, there was an accident and the defacto complainant's son died due to the said accident. It is further alleged that he was allowed to operate the fork lift without taking any precautions and safety measures.

3. The learned counsel for the petitioner would submit that he is an employee working in JKM Ferrotech Limited as HR Manager. The defacto complainant's son died due to an unfortunate occurrence and there is no allegation against the petitioner that he was the cause for the accident. The prosecution has not produced any material to show that the act of the petitioner was the causa causans for the alleged occurrence. Further even assuming that there is negligence on the side of the petitioner, there is no allegation to infer that it was gross negligence and hence, prayed for quashing of the impugned final report.



4. Though notice was served on the second respondent and counsel had entered appearance, there was no representation on 08.03.2023. Even today there was no representation.

5. The learned Government Advocate (Crl. Side) would submit that the impugned final report and the documents filed in support of the final report disclosed the offences alleged against the petitioner. The points raised by the petitioner are matters that can be adjudicated only during trial. Hence, he prayed for dismissal of the quash petition.

6. This Court finds that the only allegation is that the company officials had instructed the deceased/defacto complainant's son to operate the fork lift which was not part of his regular duty. There is nothing in the impugned final report or in the materials filed in support of the impugned final report to show that the petitioner had instructed the deceased to operate the fork lift. There is only a vague statement of the defacto complainant that he came to know later that only on the instructions of the petitioner, his son had operated the fork lift. Apart from this vague hearsay statement of the defacto complainant, there is no other evidence to suggest the petitioner had asked the defacto complainant to operate the fork lift. That apart, the prosecution has not filed any other material to connect the petitioner with the accident. It



is well settled that unless the petitioner's act is the causa causans for the occurrence, he cannot be made liable for the offences alleged. Even otherwise, there is nothing on record to show that his conduct amounted to “gross” negligence. The overall reading of the final report only suggests it was an unfortunate accident. Even if all the allegations are accepted to be true, the offences under Sections 306-A & 287 IPC are not made out against the petitioner. The petitioner has also filed a Memorandum of understanding executed between the company and the defacto complainant wherein the defacto complainant was paid a compensation of Rs. Nine lakhs. Though this may be not a relevant aspect for considering this Petition, this is recorded to show that the defacto complainant, had been compensated.

7. For all the above reasons, the impugned final report deserves to be quashed. Hence, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

21.03.2023

vsg

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

1. District Munsif Cum Judicial Magistrate, Gummidipoondi.
2. The Inspector of Police
F-2, Sipcot Police Station
Gummidipoondi.
3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN. J.

vsg

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