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Crl.OP.No.22299 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.22299 of 2023

and

Crl.M.P.No.15495 of 2023

1.Srinivasan
S/o.Late Gopalasamy

2.Sathik Kul Ameen
S/o.Basheer

3.Arunachalam
S/o.Karuppasamy

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
Kuniyamuthur Police Station,
Coimbatore City.
(Crime No.208/2023)

2.Kolli Dalamma
W/o.Kolli Jagannadham

3.Rapaka Polamma
W/o.Rapaka Kannayya

4.Nakkella Sura
W/o.Nakela Satyam

5.Ruma Mandal Ghosh
W/o.Late Barun Ghosh



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6.Putul Ghosh
W/o.Late Bishu Ghosh

... Respondents

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Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.208 of 2023 on the file of the Judicial Magistrate VII, Coimbatore and quash the same.

For Petitioners : Mr.R.Bharath Kumar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]

ORDER

This Criminal Original Petition has been filed to quash the First Information Report that is pending investigation on the file of first respondent in Crime No.208 of 2023.

2. The case of the prosecution is that a private company had engaged the services of some workers for the construction of a compound wall. On 04.07.2023, unfortunately, the existing compound wall fell down on the workers and as a result, four workers died on the spot. Yet another worker also succumbed to the injuries later. Based on the complaint given by the second respondent, a First Information Report came to be registered in Crime No.208 of 2023 for offences u/s.288 and 304(2) IPC.



3. The petitioners 2 and 3 were arrested and remanded to judicial custody on 05.07.2023. They filed Crl.O.P.No.18082 of 2023 before this Court seeking for bail. Similarly, the first petitioner (A1) also filed an anticipatory bail petition before this Court in Crl.O.P.No.18390 of 2023.

4. In the bail petition that was filed by petitioners 2 and 3 [A2 and A3], the following order was passed by this Court:

"6. The First Information Report allegations show that the defacto complainant gave a complaint alleging that twenty persons were engaged in construction activity at Sri Krishna College, Kuniyamathur. On 04.07.2023, when a digging work was done near an existing compound wall, the existing compound wall fell down on the workers. As a result, workers suffered injuries. Four persons died on the spot and one person died later. First Information Report allegations show that the incident happened not because of any role or criminal act committed by this petitioner. May be that proper precautionary or security arrangements had not been taken before digging a pit. In view of the monetary help extended by the M/s.Srinivasan Associates Private Limited to the family members of the deceased by paying a sum of Rs.6,00,000/- each and now they come up with an offer of paying Rs.9,00,000/- each to the respective family members of the deceased, and that petitioners are in judicial custody from 05.07.2023 and that material part of investigation in this case might have been completed by this time, this Court is inclined to grant bail to the petitioners with conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- each (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate Court No.7, Coimbatore and on further conditions that:

a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a



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copy of their Aadhar card or Bank Pass Book to ensure their identity.

b) the petitioners without prejudice to their defence shall deposit a sum of Rs.9,00,000/- X 5=Rs.45,00,000/- (Rupees Forty Five Lakhs only), to the credit of the Crime No.208 of 2023 before the Judicial Magistrate Court No.7, Coimbatore. On such deposit, learned Magistrate is directed to use the amount under Section 357 of Cr.P.C. for awarding compensation to the family members of the victim; Payment of this amount will not amount to admission of guilt of the petitioners. Learned Judicial Magistrate, No.7, Coimbatore, shall deposit this amount in interest bearing deposit scheme in a nationalised bank, with Automatic Renewal Facility and then disburse the amount to the legal heirs of the deceased at an appropriate time.

c) the petitioners shall report before the respondent police at 10.00 a.m, until further orders.

d) the petitioners shall not abscond either during investigation or trial.

e) the petitioners shall not tamper with evidence or witness either during investigation or trial.

f) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala ([2005] AIR SCW 5560].

g) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC."

5. The anticipatory bail petition that was filed by the first petitioner (A1) was also allowed by this Court by order dated 18.08.2023.

6. Learned counsel for petitioners submitted that a sum of Rs.30,00,000/- was paid to the *de facto* complainants and the balance



sum of Rs.45,00,000/- was deposited on the file of Judicial Magistrate

VII, Coimbatore. Learned counsel submitted that the parties have compromised the dispute and the petitioners have agreed to pay a total sum of Rs.75,00,000/- and there are five victims in this case and each agreed to receive a sum of Rs.15,00,000/-

7. Learned counsel for second respondent filed affidavits of the *de facto* complainants [R2 to R6]. Learned counsel submitted that respondents 2 to 6 are willing to receive the sum of Rs.15,00,000/- from the petitioners and they are no longer interested in prosecuting this criminal case.

8. Respondents 2 to 6 were also present before this Court at the time of hearing. Respondents 2 to 5 are the wives of the deceased and sixth respondent is the mother of one of the deceased.

9. On carefully going through the affidavits filed by respondents 2 to 6 and on hearing the parties and also the learned counsel on either side, this Court is satisfied that the dispute has been amicably settled among the parties.



WEB CONTENT

10. The First Information Report has been registered for offences u/s.288 and 304 (2) IPC. The second petitioner is the Site Engineer and the third petitioner is the Site Manager, who were working in the private company. The first petitioner is the Managing Director of the private company. This is an unfortunate incident where the existing wall had fallen on the workers when they were carrying out the construction work. Even if the case of the prosecution is taken as it is, the offence u/s.304(2) IPC is not made out since the ingredients are not satisfied. Even the offence u/s.304-A IPC is not satisfied since the petitioners cannot be held to be *Causa Causans* for the accident. However, the petitioners had taken moral responsibility of compensating the family of the deceased. This factor is also taken into consideration by this Court.

11. The victims have already been paid a sum of Rs.30,00,000/- by the petitioners. The balance sum of Rs.45,00,000/- now remains on the file of Judicial Magistrate VII, Coimbatore, in Crime No.208 of 2023. It is left open to the respondents 2 to 6 to file a memo before the Judicial Magistrate VII, Coimbatore, seeking to withdraw a sum of Rs.45,00,000/- that has been deposited to the credit of Crime No.208 of 2023. Learned Judicial Magistrate VII, Coimbatore, will permit respondents 2 to 6 to



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withdraw the amount along with accrued interest. Such permission shall be granted within a period of one week from the date of filing of memo before the concerned Court.

12. In the light of the above discussion, the First Information Report in Crime No.208 of 2023 on the file of first respondent is hereby quashed.

Accordingly, this Criminal Original Petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed.

26.09.2023

Speaking Order/Non-speaking Order
Index :Yes/No
Neutral citation: Yes/No
gm



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N.ANAND VENKATESH, J.

gm

To

- 1.The Judicial Magistrate VII,
Coimbatore.
2. The Inspector of Police,
Kuniyamuthur Police Station,
Coimbatore City.
(Crime No.208/2023)
- 3.The Public Prosecutor,
Madras High Court,
Chennai.

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