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CrI.O.P(MD).No.12944 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.09.2023

Pronounced on : 29.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

CrI.O.P(MD).No.12944 of 2020
and
CrI.M.P(MD) No.5901 of 2020

S. Pandian

...Petitioner

Vs

1. The Inspector of Police
Pandhanallur Police Station
Thanjavur District

2. Gokila

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records and quash the complaint in Crime No.1089 of 2020 pending investigation on the file of the first respondent police as against the petitioner/3rd accused.

For Petitioner : Mr.Saikrishna

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R-2 : No appearance



ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.1089 of 2020 on the file of the first respondent.

2. According to the petitioner the second respondent gave compliant as against the petitioner and others and based on the complaint given First Information Report has been registered in Crime No.1089 of 2020 for the offences under Sections 286 and 304(2) of IPC. According to the prosecution case when the defacto complainant had gone to his native place at Mullukudi Village for attending the marriage function of one Mariappan along with her children that on 26.08.2020 when her son Sakthi had gone for watching procession of the marriage party, at that time a fire cracker hit against him and hence he suffered injuries and he was admitted in the hospital for treatment at Mayiladuthurai Government Hospital and thereafter he was referred to Thanjavur Medical College Hospital for further treatment but he died on 27.08.2020. In the same occurrence another boy namely Praveen also sustained serious injuries in the accident. The crackers which caused the accident was burst by the second accused and the first accused is the person who headed the marriage party. The further allegation is that knowing the danger involved in bursting cracker the accused persons did not take adequate care in bursting the same in a safe place without posing any danger to others .The petitioner states in



the complaint It was requested to take action against the seller of the cracker as well as such the petitioner has been arrayed as third accused. Infact he is a licensed manufacturer and seller of fire works. The petitioner has been issued with a licence number 01/94-95 for the manufacture and sale of fire works in the S.No.70/13, Thiruvallankadu Vilage, Kuthalam Taluk, Nagapattinam District and the said licence was issued on 20.05.2021 under the provisions of the Explosives Act, 1884 and Explosives Rules, 2008 was valid till 31.03.2014 and subsequently being renewed periodically and latest such renewal having being issued by the licensing authority on 27.06.2020 and valid till 31.03.2023. The petitioner is carrying on business in dealing with the fire crackers lawfully under due license as contemplated by law and the petitioner is carrying business without any breach of condition of licence. The petitioner has nothing to do with the alleged occurrence and he is not aware of the alleged occurrence till he was arrested in this case. Therefore the pending First Information Report is pure abuse of process of law and it is liable to be quashed.

3.`No counter was filed by the respondents

4. The learned counsel appearing for the petitioner would contend that the second respondent has lodged complaint as against the petitioner and others alleging that the first and second accused bursted



crackers without following safety measures and thereby the crackers fell on her son and thereby he sustained injuries and when he was taking treatment he died in the hospital on 27.08.2020. Further another boy also sustained injuries due to the bursting of crackers. The allegation against the petitioner is that he only sold the crackers to the other accused. This is the only allegation as against the petitioner and the petitioner is having license to manufacture and sell crackers. Copy of the license was also produced before this Court therefore no offence is made out as against this petitioner and the pending First Information Report is pure abuse of process of law and it is liable to be quashed.

5. The learned Additional Public Prosecutor would submit that based on the complaint given by the second respondent/defacto complainant the first respondent has registered the First Information Report as against the petitioner and others. The petitioner has only sold crackers and he has got license for manufacturing and sale of crackers, however this petitioner has been arrayed as accused. Now the case is under investigation and at this stage the First Information Report cannot be quashed and the matter required elaborate trial, hence the petition has to be dismissed.



6. Heard both sides and perused the materials available on record.

7. On perusal of the record, it is observed that based on the complaint given by the second respondent the first respondent registered First Information Report in Crime No.1089 of 2020 for the offences under Sections 286 and 304(2) of IPC. It is true that due to negligence and non following of safety measures young boy died and one young boy sustained injuries at the same time this Court has to see who is responsible for the above said act. Admittedly this petitioner has not directly participated in the crime and the main allegation is against A1 and A2. They only bursted crackers without following safety measures, thereby fire got on the deceased and another boy also sustained injuries.

8. According to the petitioner he has license for selling and manufacturing crackers and he also produced copy of license. On perusal of the same, the petitioner had valid license till 31.03.2014 and subsequently being renewed periodically and latest such renewal having being issued by the licensing authority on 27.06.2020 and valid till 31.03.2023. The alleged date of occurrence in on 27.08.2020 but on the date of occurrence the petitioner had license to sell crackers,



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therefore it is clear that even according to the First Information Report allegations against the petitioner are vague and the only allegations is to take action as against the seller of crackers also. This word alone is not sufficient to rope the accused in this case. In this case the petitioner being seller of crackers cannot be prosecuted with A1 and A2 who are said to be accused in this case. Therefore the pending First Information Report is liable to be quashed.

9. Accordingly this Criminal Original Petition stands allowed and the First Information Report in Crime No.1089 of 2020 on the file of the first respondent is hereby quashed as against this petitioner. Consequently connected miscellaneous petition is closed.

29.09.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

1. The Inspector of Police
Pandhanallur Police Station
Thanjavur District
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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P. DHANABAL,J.

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