



Crl.O.P.(MD)No.23172 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.01.2023**

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.23172 of 2022

and

Crl.M.P.(MD)No.16443 of 2022

V.Vijayakumaran

... Petitioner

Vs.

1.The Inspector of Police,
Virudhunagar Bazaar Police Station,
Virudhunagar District.
(Crime No.79 of 2021)

2.Krishnamurthy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No.79 of 2022 pending on the file of the first respondent and quash the same as against the petitioner.

For Petitioner : Mr.G.R.Satish

For R1 : Mr.M.Muthumanikkam
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records relating to the impugned FIR in Crime No.79 of 2022 pending on the file of the first respondent and quash the same.

2. The case of the prosecution is that the petitioner is working as a Foreman Grade I in the office of A.E. Town South Office, Virudhunagar TANGEDCO, that on 05.07.2022, maintenance work was carried out in 11Kv high tension electric lines, which is situated near the National Highway, that before commencing the maintenance work, a permanent staff of Tamil Nadu Electricity Board ensured that all the safety measures to carry out the maintenance work was taken and believing their words, 12 employees including the second respondent/defacto complainant, who is a contract employee in Tamil Nadu Electricity Board, had commenced the maintenance work and that all of a sudden, at about 10.56 a.m., there was an electrocution on two employees, due to which, one Veyilselvam had died and one Muthuraj had sustained serious injuries. Hence, the



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second respondent has lodged a complaint before the first respondent and on that basis, FIR came to be registered in Crime No.79 of 2022 against the accused for the offences under Sections 338 and 304(A) IPC.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

4. The learned counsel appearing for the petitioner would submit that the Principal Secretary to Government, Energy Department, Secretariat, Chennai has issued a circular in D.O.Letter No. 5475/B2/2007-1, dated 27.06.2007, to the District Collector, Virudhunagar, directing the police officials not to register FIR or not to initiate criminal action against TNEB Staff; that the petitioner is working as a Foreman in the Electricity Board and that since the circular has been issued by the Principal Secretary, the very filing of the FIR against the petitioner is not proper and the same is liable to be quashed.

5. At this juncture, it is necessary to refer the circular relied on by the learned counsel appearing for the petitioner,



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“Of late, certain incidents involving electrical accidents have taken place in certain Districts in which FIR have been filed against the TNEB field staff. In some cases, deaths have occurred on account of contact with live wires. In such cases, unless an Officer not less than the rank of Superintending Engineer assesses the culpability of staff for deliberate negligence, I request that no FIR/Criminal action should be initiated against TNEB Staff. I reiterate that TNEB being an essential services Department, morale and well being of the Electricity Board Staff is very essential if TNEB is to deliver the socio economic policies of the Government.”

6. Admittedly, the Principal Secretary to Government, Energy Department, has sent the said D.O.Letter to the District Collector, Virudhunagar, making a request that no FIR/Criminal action should be initiated against the TNEB Staffs. The Energy Secretary cannot issue any directions either to the District Collector or to the police officials not to register any FIR against the EB Staffs or not to initiate criminal action against the EB Staffs. Moreover, as already pointed out, it was only a request made by the Energy Secretary and the same cannot be considered



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as a circular or note issued by the Energy Department and as such, the same is binding neither on the revenue officials nor on the police officials.

7. Considering the above, this Court is not in agreement with the submission made by the learned Counsel appearing for the petitioner. No doubt, the police officials are not experts to assess the culpability of staff for a deliberate negligence. But they are the competent persons to register FIRs and to initiate criminal action and during the investigation, they can very well take the assistance of the experts to assess the culpability of the staff for a deliberate negligence.

8. The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a



series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected



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in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and



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with a view to spite him due to private and personal grudge.”

9. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in **2019 (18) SCC 191**, the Hon'ble Apex Court has specifically held that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

10. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in **2021 (3) Crimes 247** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot



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appreciate evidence nor can it draw its own inferences from contents of
FIR and materials relied on.

11. In the case on hand, a cursory perusal of the FIR makes out a *prima facie* case to proceed against the accused. Hence, this Court concludes that this is not a fit case to invoke Section 482 Cr.P.C., for quashing the FIR at this stage and the same is liable to be dismissed.

12. In the result, this Criminal Original Petition stands dismissed.
Consequently, connected Miscellaneous Petition is closed.

03.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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K.MURALI SHANKAR,J.

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To

- 1.The Inspector of Police,
Virudhunagar Bazaar Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.23172 of 2022
and
Crl.M.P.(MD)No.16443 of 2022

Dated: 03.01.2023