



Crl.O.P.Nos.4313 & 4317 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos.4313 & 4317 of 2022

and

Crl.M.P.Nos.2169, 2170, 2175 & 2176 of 2022

V. Ramasubramaniyan
Manager
E.I.D. Parry (India) Limited

... Petitioner
in Crl.O.P.No.4313/2022

S. Suresh
Occupier,
E.I.D. Parry (India) Limited

... Petitioner
in Crl.O.P.No.4317/2022

Vs.

The Tamil Nadu State represented by,
Deputy Director of Industrial Safety and Health,
No.53/13, Dowlath Nagar,
Semmandalam,
Cuddalore – 607 001.

... Respondent in both
Crl.O.P.s

Prayer in Crl.O.P.No.4313 of 2022: Criminal Original Petition is filed
under Section 482 of Cr.P.C., praying to call for the records proceedings in



Crl.O.P.Nos.4313 & 4317 of 2022

C.C.No. 348 of 2021 on the file of Chief Judicial Magistrate, Cuddalore and
quash the same.

Prayer in Crl.O.P.No.4317 of 2022: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records proceedings in C.C.Nos. 347 of 2021 on the file of Chief Judicial Magistrate, Cuddalore and quash the same.

For Petitioner in
both Crl.O.Ps : Mr. S. Ravindran,
Senior Advocate for
Mr.S.Bazeer Ahamed

For Respondent in
both Crl.O.Ps : Mr. S. Vinoth Kumar
Government Advocate (Crl.Side)

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the charge sheets in C.C.Nos. 348 and 347 of 2021 on the file of Chief Judicial Magistrate, Cuddalore respectively, in which cognizance was taken for the offence punishable under Section 105 of Factories Act, 1948.

2. Heard both sides.

2/10



Crl.O.P.Nos.4313 & 4317 of 2022

3. The Petitioners are the Manager and Occupier of the factory belonging to EID Parry (India) Limited, a Company incorporated under the companies Act, 1956. The said company is engaged in the business of Sugar and Nutraceuticals with its sugar plants spread across South India in the state of Tamil Nadu, Karnataka and Andhra Pradesh. This is the first sugar factory in the Country and the operations in the factory commenced in the year 1842 for the manufacture of sugar and later in 1845 distillery unit was added to its operation. Since then, gradually the capacity of the factory was enhanced from time to time to the present level of 5000 MT per day. The Co-generation power using Bagasse as fuel was started during 1997. In 2015 Drier plant for converting spent wash into organic Potash was started. This project is the first of its kind in the entire Asia to save the mother earth by zero discharge of effluent water. At present, the Nellikuppam factory complex comprises of sugar, distillery, co-generation and sugar refinery. Further, the petitioners' factory has been regularly maintaining fully qualified safety officer on its rolls at Nellikuppam factory and every person who is required to carry out any manufacturing activities or jobs or incidental thereto has been directed to be ensured to possess adequate



Crl.O.P.Nos.4313 & 4317 of 2022

knowledge of the job to be carried out and necessary safety precautions, he has to undertake and maintain necessary safety equipment that he has to use while performing any job whether skilled or unskilled. So, all the workmen have been provided with necessary personal protective equipment and also trained to make sue of them.

4. While so, on 02.09.2021 at about 12.10 a.m. the Bend pulley (length 2500 mm, Dia 300 mm) of Mill belt conveyor, which is located at a height of 20 feet in between Elevated Rack carrier and Zero mill, fell down as the shaft broke due to high tension. Unfortunately, at the same time Mill section employee P.Ravi aged 53 years after having tea had needlessly walked towards south direction below the mill belt conveyor without wearing safety helmet. It appears that when he heard an abnormal sound from the mill belt conveyor he walked towards the location from where the abnormal sound came and at that instance, the Mill Belt conveyor Bend Pulley fell down and rebounded on to his fore head and his right leg thigh. As a consequence, he sustained severe injuries. Immediately, the shift engineer and other workers took the injured person to the Government



CrI.O.P.Nos.4313 & 4317 of 2022

Hospital, Cuddalore by using company Ambulance, where he was declared dead by the doctor at 1.30 a.m.

5. Subsequent to the accident, the factory Manager submitted an accident report in Form No.18 in terms of Rule 96 of Tamil Nadu Factories Rule 1950 to the Respondent and consequently the respondent also inspected the factory on the same day and issued show cause notice on 08.09.2021 along with his report, for which the company also gave a reply on 15.09.2021 narrating the high level safety precautions enforced in the factory premises. In fact, the deceased died due to non compliance of safety norms as provided by the factory, under Clause 3(1) and 4(3) of Schedule XI in terms of Rule 53 of Tamil Nadu Factory Rules read with Section 21(2) of the Factories Act. Therefore, they are no way connected with the alleged accident and they were falsely implicated in this cases by the respondent for not complying with the required precautions in compliance of the Factories Act. Accordingly, the petitioners have approached this Court to quash the proceedings on the ground that the complaint filed by the respondent was taken on record as a matter of routine and on the ground of non-application



CrI.O.P.Nos.4313 & 4317 of 2022

of mind and also on the ground that ingredients of Section 7A of the Factories Act, 1948 read with Rule 53 of Tamil Nadu Factory Rules are not attracted.

6. The learned counsel for petitioners would submit that the unfortunate accident was happened to one P.Ravi was not due to non-compliance with any safety norms as provided under the Factory Rules in particular Schedule XI Rule 53 of Tamil Nadu Factory Rules. He would submit that the petitioners have given a detailed reply to that effect to the respondent. According to the petitioners, the deceased was not attending work when he met with the accident and he was on a stroll after having a cup of tea at midnight of 02.09.2021. However, the report of the respondent would also show that the workman instinctively looked up at the time when the conveyor bend pulley fell down, which was totally unforeseen. Therefore, the facts reveal that he was not deputed for the work at that time. The learned counsel would also submit that the petitioners, who are Manager and Occupier of the Factory are not guilty of alleged violation, since because there is no averment in the complaint that under the underpass



Crl.O.P.Nos.4313 & 4317 of 2022

of the conveyor was not securely guarded as mentioned in para 3 of Part A of Schedule XI, on the other hand, the allegation in the complaint is that the underpass was not closed by a fence as a measure of safety, which was not so specifically provided in terms of the Rules. He would further submit that the averments in the complaint do not disclose a violation of safety device for the conveyor in the establishment as provided under para 4(3) of Part A of Schedule XI. Therefore, he would submit that the accident was not happened during the course of his employment. Hence, there is no negligence on their part.

7. Furthermore, today when the matter taken up for hearing, the learned counsel for petitioners would submit that on considering the deceased family circumstances, they have totally paid a sum of Rs.28,06,576.50/- towards compensation and son of deceased R.Vinoth was also given employment for the monthly salary of Rs.37,111.02/- per month and to that effect, the demand draft as well as salary slip was produced before this court.



Crl.O.P.Nos.4313 & 4317 of 2022

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8. On seeing entire facts, it reveals that the accident was not happened during the course of employment, but because of negligence on the part of deceased. Moreover, the family of deceased was paid compensation. So, on considering both side submissions, it would clearly shows that there is no prima facie material ingredients against the petitioners for the alleged negligence as claimed by the respondent. Therefore, this Court is inclined to quash the proceedings initiated against the petitioners. They have produced xerox copy of demand draft as well as salary slip of son of deceased and the same were taken note of by this court. Accordingly, these Criminal Original Petitions are allowed and the proceedings initiated in the charge sheet in C.C.Nos. 348 and 347 of 2021 on the file of Chief Judicial Magistrate, Cuddalore are quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

19.03.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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8/10



CrI.O.P.Nos.4313 & 4317 of 2022

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- To**
1. Deputy Director of Industrial Safety and Health,
Tamil Nadu State,
No.53/13, Dowlath Nagar,
Semmandalam, Cuddalore - 607 001.
 2. The Public Prosecutor,
High Court of Madras, Chennai.



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CrI.O.P.Nos.4313 & 4317 of 2022

T.V.THAMILSELVI, J.

rpp

CrI.O.P.Nos.4313 & 4317 of 2022

19.03.2024