



Crl.O.P.(MD)Nos.18672 of 2021 & 15529 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)Nos.18672 of 2021 & 15529 of 2020 &
Crl.M.P.(MD)Nos.7585 of 2020 & 10331 of 2021

Crl.O.P.(MD)No.18672 of 2021

M.Sridharan

...Petitioner

vs.

1.The State Rep. by
Inspector of Police,
Andipatti Police Station,
Theni District.
Crime No.693 of 2020

2.P.Sivaraman

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the First Information Report in Crime No. 693 of 2020 on the file of the first respondent Police and quash the same as illegal as against the petitioner.

For Petitioner : Mr.T.Mohan, Senior Counsel
for Mr.X.Roy Reegan
For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)
for R1
Mr.V.Selvakumar for R2



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K.Senthilnathan

...Petitioner

VS.

1.The State Rep. by
Inspector of Police,
Andipatti Police Station,
Theni District.
Crime No.693 of 2020

2.Sivaraman

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the First Information Report in Crime No. 693 of 2020 on the file of the first respondent Police and quash the same as illegal as against the petitioner.

For Petitioner : Mr.C.Susi Kumar

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)
for R1
Mr.V.Selvakumar for R2

COMMON ORDER

These petitions are filed to quash the First Information Report in Crime No.693 of 2020 on the file of the first respondent Police by the accused 1 and 4.



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2. The petitioner in Crl.O.P.(MD)No.18672 of 2021 is the fourth accused and the petitioner in Crl.O.P.(MD)No.15529 of 2020 is the first accused.

3.The second respondent / injured lodged a complaint with the first respondent Police on 13.06.2020 stating that he used to collect coins from Arulmigu Dharmashastha Temple situate at Thimmarasanaickanoor Village. On the southern side of the said Temple, the Southern Railways is converting meter gauge into broad gauge and in that process they used to put explosive substances for blasting the rock. Normally, they used to give warning signals to the general public before keeping the explosive substances on the rock by showing a red flag. However, on 13.06.2020, they did not inform the general public before blasting the rock, as a result of which, a large rock fell on the head of one Andi s/o.Thangaraj (deceased) and the defacto complainant. They were immediately rushed to the hospital and Andi succumbed to injuries.



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4. The complaint preferred by the injured was registered as FIR in Crime No.693 of 2020 by the Sub Inspector of Police, Andipatti Police Station on 13.06.2020 against the following accused (1) Eagle Earth Movers Owner (2) Subban, (3) Ponnarasan and (4) Sridhar, Thirupathi Agency Owner for the offences punishable under Sections 286, 336, 338 IPC and 9(B)(1)(a) and 9(B)(1)(b) of Explosives Act, 1884.

5. Mr.C.Susi Kumar and Mr.X.Roy Reagan, learned counsels for the first and fourth accused would contend that the first accused was a contractor of the Southern Railways for converting the meter gauge into broad gauge between Madurai and Bodi and he had given sub-contract to fourth accused, who used to put explosives on the drilled rock by engaging persons. In such circumstances, the petitioners were not directly involved in the offence as alleged by the prosecution. Their further contention is that as per Section 8 of Explosives Act, 1884 whenever an accident takes place resulting in loss of human life or serious injury to any person or property, the same should be informed to the Chief Controller of Explosives and to the Officer-in-Charge of the nearest



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Police Station. As per Rule 133 of Explosive Rules, 2008, the Chief Controller or District Magistrate should conduct an inquiry into the accident and that Police cannot file a final report against the present petitioners. Their further contention is that the deceased and the injured already knew that the Southern Railways through their contractors is blasting the rocks by using explosives and they should not have come near the spot. Thus negligence is only on the part of the deceased and injured. According to them, the fourth accused took sufficient safeguards before putting the explosive substances on the rocks and they cannot be punished for the offences under Sections 286, 336, 338 IPC and 9(B)(1) (a) and 9(B)(1)(b) of Explosives Act, 1884. Therefore, they prayed for quashing the First Information Report.

6. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) would contend that the first accused is the proprietor of Eagle Earth Movers and he has taken a contract from Southern Railways for drilling and blasting the rock for converting meter gauge into broad gauge between Madurai and Bodi. The accused 2 and 3



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were engaged by him for this purpose and the fourth accused who is the proprietor of Thirupathi Agency supplied explosive substances which would be kept on the drilled rock in order to blast the rock. According to him, the accused used to give warning signals to the general public by showing a red flag. However, on the fateful day i.e., on 13.06.2020, they fail to do so, as a result of which, Andi (deceased) and Sivaraman (defacto complainant), daily wagers, sustained grievous injuries and subsequently, Andi succumbed to injuries. Andi (deceased) and Sivaraman (defacto complainant) were engaged in collecting coins thrown by the devotees of Arulmigu Dharmashastha Temple on the road while passing Thimmarasanaickanoor Village on Andipatti - Madurai main road. The four accused without taking sufficient precautions and without giving any warning signals to the general public at large had negligently put explosive substances on the rock and therefore First Information Report is rightly registered by the Sub Inspector of Police, Andipatti Police Station. The investigation done by the first respondent Police also reveals the offences committed by the present petitioners and therefore, there is no good ground to quash the First Information Report.



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7. At the outset, it may be observed that the first accused is the owner of Eagle Earth Movers and he has taken a contract from Southern Railways, to drill the rock and keep the explosive substances over it for blasting the same. This is for converting meter gauge into broad gauge between Madurai and Bodi. Thus, the first accused had engaged the accused 2 and 3 for the purpose of putting explosive substances on the rock. The fourth accused used to supply the explosives and under his supervision the persons engaged by him would ignite the explosive substances. Thus, it is seen that all the accused were engaged in blasting the rocks and therefore, the accused 1 and 4 cannot say that they are not responsible for the death of one Andi and the injuries sustained by the defacto complainant as they have failed to take necessary precautions before using the explosive substances. The defacto complainant immediately after the accident had informed the Police that the accused normally would give warning signals to the general public before blasting the rocks by showing red flag and on 13.06.2020, they did not do so.



8. Arulmigu Dharmashastha Temple is under the control of HR & CE Department of Tamilnadu State Government. The deceased and the injured were engaged by one Udhayapandi, who is the successful bidder for collecting coins thrown on the road by the devotees. They used to collect the coins from Arulmigu Dharmashastha Temple also. The place where the work of converting meter gauge into broad gauge was near Andipatti Pass, which is situate on the northern side of Arulmigu Dharmashastha Temple. Therefore, the accused 1 to 4 would have definitely known that various persons would be coming over to Arulmigu Dharmashastha Temple for the purpose of collecting coins kept by the devotees in front of the Temple or on the road while crossing the Temple. They cannot now contend that negligence is only on the part of the defacto complainant and the deceased.

9. Section 8 of the Explosives Act, 1884 states that whenever an accident takes place resulting in loss of human life or serious injury to any person or property, notice of accident should be given to the Chief Controller of Explosives and to the Officer-in-Charge of the nearest



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Police Station. In the instant case, the complaint was lodged by the defacto complainant before Andipatti Police Station which is the nearest Police Station. Rules 132 to 134 of Explosives Rules, 2008 speaks about the procedures to be followed for conducting inquiry by the Chief Controller or the District Magistrate. Nowhere in the Explosives Act, 1884 it is stated that the Inspector of Police is not empowered to register FIR. In the circumstances, I do not see any reason to quash the First Information Report in Crime No.693 of 2020 on the file of the first respondent Police.

10. Accordingly, the Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

21.03.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To
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- 1.The Inspector of Police,
Andipatti Police Station,
Theni District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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