



Judgment

514 apl1347.23 & 1321.25

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION (APL) NO.1347 OF 2023
AND
CRIMINAL APPLICATION (APL) NO.1321 OF 2025**

CRIMINAL APPLICATION (APL) NO.1347 OF 2023

Krishna Mandadi, aged about 69
years, occupation – private, r/o : 2-2-
647/77/G-32, Vijay Durga Residency,
SBI Colony, Baghamberpeth, Near
Ayappa Swamy Temple,
Baghamberpeth, Amberpet,
Hyderabad, Telangana – 500 013. **Applicant.**

:: V E R S U S ::

1. State of Maharashtra, through
Police Station Officer, Police Station
Sindhi (Rly.), Taluka; Sindhi (Rly),
district – Wardha.

2. Chandrabhan Meghare, aged
major, occupation – service, (police
constable), (B.No.667), r/o Police
Station, Sindhi Rly, tahsil Sindhi Rly.,
district - Wardha. **Non-applicants.**

Shri Chinmay Dharmadhikari, Counsel for the Applicant.
Shri A.G.Mate, Additional Public Prosecutor for NA
No.1/State.

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

CLOSED ON : 08/12/2025
PRONOUNCED ON : 11/12/2025

CRIMINAL APPLICATION (APL) NO.1321 OF 2025

Venkata Siva Kishore Patnala, aged:
about 32 years, occupation – Civil
Engineer, r/o: 17-2-82/j/1,
Priyanka Gardens, 1st Line, Old
Guntur, Guntur, Andhra Pradesh -
522001.

..... **Applicant.**

:: VERSUS ::

1. State of Maharashtra, through
Police Station Officer, Police
Station Sindhi (Rly.), Taluka:
Sindhi (Rly), district – Wardha.

2. Chandrabhan Meghare, aged
major, occupation – service, (police
constable), (B.No.667), r/o Police
Station, Sindhi Rly, tahsil Sindhi
Rly., district - Wardha.

..... **Non-applicants.**

Shri A.O.Shriwas, Counsel for the Applicant.
Mrs.Shamsi Haider, Additional Public Prosecutor for NA
No.1/State.

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

CLOSED ON : 09/12/2025
PRONOUNCED ON : 11/12/2025

COMMON JUDGMENT (Per : Urmila Joshi-Phalke)

1. These applications are filed under Section 482 of the CrPC.

2. In Criminal Application No.1347/2023, heard learned counsel Shri Chinmay Dharmadhikari for the applicant and learned Additional Public Prosecutor Shri A.G.Mate for the State.

3. In Criminal Application No.1321/2025, heard learned counsel Shri A.O.Shriwas for the applicant and learned Additional Public Prosecutor Mrs.Shamsi Haider for the State.

4. Though both applications are closed for orders on different dates i.e. 8.12.2025 and 9.12.2025, since facts

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are identical and FIR is the same in both applications, these applications are clubbed together for passing common orders.

5. By these applications, applicants seek quashing of FIR in connection with Crime No.49/2018 registered for offence under Section 304-A of the IPC and consequent proceeding arising out of the same bearing SCC No.943/2018 pending before learned JMFC, Seloo, district Wardha.

6. Brief facts of the case are that, applicant Krishna Mandadi (In Criminal Application No.1347/2023) is Managing Director of construction company namely “Someshwaraya Infrastructure Pvt.Ltd.” (the said construction company).

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Whereas, applicant Venkata Siva Kishore Patnala (In Criminal Application No.1321/2025) is Engineer of the said construction company.

The said construction company is engaged in construction of major Governmental and Semi-Governmental Works and carries out works of construction of roads and bridges etc.. The said construction company was assigned with work of construction of “over-bridge” at Sindhi Railway Station, Wardha. When the said work was in progress, some streams and potholes were dug by workers of the said construction company. On 9.10.2017, child namely “Wahid Lobh Shah,” aged about two and a half years, fell in one of potholes and as it was rainy season, the said pothole was filled with water. As a result of which, the child died due to drowning.

7. As per the case of the prosecution, since there were no proper preventive measures or security measures

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at the construction site, and no barricades/flags were erected around the potholes to cover the same, applicant Krishna Mandadi, working as Managing Director, and applicant Venkata Siva Kishore Patnala, working as Engineer, are responsible for the said unfortunate death of the said child and, therefore, the crime was registered against both the applicants under Section 304-A of the IPC.

8. Learned counsel Shri Chinmay Dharmadhikari submitted that applicant Krishna Mandadi is Managing Director of the said construction company and he was not concerned with day-to-day activities of the said construction. A contractor was deputed there and the work was in progress under supervision of the contractor and Engineer. He is a senior citizen and vicarious liability is unknown to the criminal law. The applicant cannot be held liable for act of others. He submitted that none of statements shows that the applicant was looking after day-

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to-day activities of the construction work and, therefore, he is responsible for act of negligence. He submitted that, moreover, during mediation process, both parties have settled the dispute and compensation is deposited in this court. In view of that, as there is no direct involvement of the applicant, and for holding him guilty of vicarious liability also none of statements discloses that he was looking after day-to-day activities of the said construction work, no *prima facie* case is made out against applicant Krishna Mandadi. In view of that, the FIR lodged against him and the consequent proceeding arising out of the same deserve to be quashed and set aside.

9. In support of his contentions, learned counsel Shri Chinmay Dharmadhikari appearing for applicant Krishna Mandadi placed reliance on **Shiv Kumar Jatia vs. State of NCT of Delhi, reported in (2019)17 SCC 193.**

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10. Learned counsel Shri A.O.Shriwas appearing for applicant Venkata Siva Kishore Patnala, submitted that recital of the FIR and final report itself shows that the present applicant joined work with the said construction company as Engineer after the date of incident i.e. 12.10.2017. Whereas, the alleged incident has taken place during intervening night of 9.10.2017 and 10.10.2017. Recital of the chargesheet itself shows that the present applicant was not working at the said site on the day of the incident and he joined the said site subsequent to that and, therefore, he cannot be held liable for the act of negligence. In view of that, the FIR lodged against him and the consequent proceeding arising out of the same deserve to be quashed and set aside.

11. *Per contra*, both learned Additional Public Prosecutors for the State strongly opposed these applications and submitted that considering fact, that the

small boy of two and a half years died due to drowning in the said pothole, it was the duty of the Managing Director of the said construction company as well as persons looking after the work to keep security measures at the construction site, and, therefore, these applications deserve to be rejected. They took us through various statements of witnesses.

12. After hearing both the sides and perusing investigation papers, there is no dispute to the fact that the deceased, aged two and a half years, was a child of a labour working on the said construction site. It is also not in dispute that the said child died due to drowning in the pothole, which was dug at the construction site. Applicant Krishna Mandadi is Managing Director of the said construction company. During the investigation, statements of parents of the deceased child as well as statements of others are also recorded. None of statements

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discloses that applicant Krishna Mandadi was looking after day-to-day activities of the said construction site. The statements of the parents of the deceased child nowhere state that as no safety measures were kept at the construction site, the deceased child fell in the said pothole and died. On the contrary, the statement shows that the mother of the deceased child left her house to proceed towards hospital and she was not aware that her deceased child is also following her and, accidentally, the deceased child fell in the said pothole and died due to drowning. None of statements discloses that there were no safety measures kept at the construction site. Evening accepting the allegations as it is, admittedly, no investigation is carried out by the investigating agency to show that applicant Krishna Mandadi was looking after the day-to-day activities of the said construction site and, therefore,

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he is a responsible person assigned with duty at the construction site and he has not kept any safety measures.

13. Insofar as another applicant Venkata Siva Kishore Patnala is concerned, admittedly, he joined his duty with the said construction company as Engineer after the date of incident i.e. 12.10.2017. Whereas, the alleged incident has taken place during intervening night of 9.10.2017 and 10.10.2017. Therefore, he cannot be held liable for the said incident.

14. Learned counsel Shri Chinmay Dharmadhikari appearing for applicant Krishna Mandadi, rightly placed reliance on the decision in the case of **Shiv Kumar Jatia** *supra* wherein it is held that, “it is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the Statute specifically provides for. It is further held that an individual who has perpetrated the commission of an offence on behalf of the company can be

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made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. It is also held that an individual can be implicated in those cases where statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision”.

15. In **Criminal Appeal No.11/2025 (Sanjay Dutt and ors vs. The State of Haryana and anr)** decided by the **Supreme Court on 2.1.2025**, it has also been observed that, “there is no vicarious liability that can be attached to any of the directors or any office bearers of the company. It is the individual liability or the act that would make the person concerned liable for being prosecuted for the offence punishable under Section 19 of the Act, 1900”.

16. Similarly, in **Criminal Appeal No.34/2015 and other connected appeals (Sunil Bharti Mittal vs. Central Bureau of Investigation)** decided by the Supreme Court on

9.1.2025 it has been observed that, “when the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect”.

It has further been held, by referring another decisions in the cases of **Sham Sunder vs. State of Haryana, reported in (1989)4 SCC 630** and **Hira Lal Hari Lal Bhagwati vs. CBI, reported in (2003)5 SCC 257**, that, “there is no vicarious liability in criminal law unless the statute takes that also within its fold”.

It has further been held that, “the Penal Code, 1860 save and except in some matters does not contemplate any vicarious liability on the part of a person. Commission of an offence by raising a legal fiction or by creating a vicarious liability in terms of the provisions of a statute must be expressly stated. The Managing Director or the Directors of the Company, thus, cannot be said to have

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committed an offence only because they are holders of offices”.

17. It is well settled principle that summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion.

18. By applying these principles to the facts of the present case in hand, admittedly, it is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made accused if the statute provides such liability and if there is sufficient evidence of his active role coupled with criminal intent. The primary responsibility is on the complainant to make

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specific averments as are required under the law. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Even, where such provision for fastening vicarious liability exists, it does not mean that all Directors of the company would be automatically liable for any contravention of such statute. Vicarious Liability would arise only if there are specific and substantiated allegations attributing a particular role or conduct to such director, sufficient enough to attract the provisions constituting vicarious liability and by extension the offence itself.

19. In the light of the above observations and by applying the same to the facts of the present case in hand, admittedly, there is no specific allegation against applicant Krishna Mandadi that he has played a particular role or he was responsible for the day-to-day activities of the said construction work.

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20. Insofar as another applicant Venkata Siva Kishore Patnala is concerned, he joined his duty as Engineer with the said construction company after the alleged incident i.e. 12.10.2017. Whereas, the alleged incident has taken place during intervening night of 9.10.2017 and 10.10.2017.

21. Thus, specific allegation against both applicants is absent in the present case.

22. The law relating to quashing of FIRs was explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be considered while considering applications for quashing of the FIRs, which read as under:

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“(a) 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;

(b) 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;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

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(d) 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;

(e) 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;

(f) 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;

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

23.. In view of the above, as no *prima facie* case is made out against the applicants, these applications deserve to be allowed, as per order below:

ORDER

(1) Both Criminal Applications are **allowed**.

(2) FIR in connection with Crime No.49/2018 registered for offence under Section 304-A of the IPC and consequent proceeding arising out of the same bearing SCC No.943/2018 pending before learned JMFC, Seloo, district Wardha are hereby quashed and set aside to the extent of

applicants Krishna Mandadi and Venkata Siva Kishore Patnala.

(3) The compensation amount Rs.3,50,000/- deposited by Demand Draft No.329841 on 17.11.2025 by applicant Krishna Mandadi be credited in “Indian Bank Account No.8190135973” in the name of the mother of the deceased child “**Batvi Lobshah Madari.**”

(4) Registry of this Court to comply with the above said directions with immediate effect.

Applications stand **disposed of.**

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!