



Crl.O.P.(MD)No.3197 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.3197 of 2025

and

Crl.M.P(MD) Nos.2160 and 2161of 2025

1. Isakki @ K.Esakki
2. Annadass @ Annados

.. Petitioners

Vs.

1. The Inspector of Police
Kallimandiyam Police Station
Dingidul District

2. Sathya

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to C.C No. 220 of 2024 on the file of the learned Judicial Magistrate, Oddanchathiram, Dindigul District and quash the same as against the petitioners

For Petitioners : Mr.S.Deenahayalan

For Respondents : Mr.M.Vaikkam Karunanithi
No.1 Government Advocate(Crl.Side)

No.2 : Mr.Sarvagan Prabhu



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ORDER

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This Criminal Original Petition has been filed to quash the proceeding in C.C No. 220 of 2024 on the file of the learned Judicial Magistrate, Oddanchathiram, Dindigul District

2. The case of the prosecution is that on 27.07.2024 while the husband of the defacto complainant was working as gangman in TANGEDCO, Kallimandiyam and he was engaged in his work of shifting poles in the land belongs to Senthil, Pallapanpatti due to damage of the electric pole it fell down thereby the husband of the defacto complainant sustained injuries and he was taken to Kumaran Hospital and the same was informed to her, thereafter on 29.07.2024 he died in the hospital and she gave statement that no further action can be taken and thereafter she lodged complaint and based on the same First Information Report has been registered in Crime No.189 of 2024 for the offences under Section 106 of BNS against the petitioners who are officer and contract worker of the EB Department. The first respondent after registering the case conducted investigation and filed final report. Based on the final report the trial Court has taken cognizance in CC No.220 of 2024 and the same is pending trial. Now the petitioners who are accused have filed this petition.



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3. The learned counsel appearing for the petitioners would submit that the first petitioner is working as Junior Engineer of TANGEDCO, Kallimandiyam and the second petitioner was a contract labour attached to TANGEDCO, Kallimandiyam. Whiles, the complaint was lodged stating that the officials along with the second respondent husband who were doing work of shifting the HT line in between two poles which connects 22KV feeder line at Paruthiyar. While so the pole fell down and the husband of the second respondent fell down and sustained injuries and subsequently died. The first respondent based on the complaint given by the second respondent registered a case for the offence under Section 106 of BNS and thereafter the first respondent investigated case and filed final report. The first respondent has not conducted proper investigation. Infact the complaint does disclose the negligence on the part of the petitioners. There are no averments to constitute the offence under Section 106 of BNS. Merely because the electric poles fell down while deceased was working along with these petitioners it cannot be stated that there is a negligence on the part of the petitioners. Therefore the pending proceedings are liable to be quashed against the petitioners.



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4. The learned Government Advocate(Crl.side) appearing for the first respondent would submit that based on the complaint lodged by the second respondent the first respondent registered a case in Crime No.189 of 2024 for the offence under Section106 of BNS and thereafter they conducted investigation and final report and there are prima facie materials available to proceed with the case and thereby the petition is liable to be dismissed.

5. The learned counsel appearing for the second respondent would submit that the husband of the second respondent was working as gangman in TANGEDCO. Whiles, he died while he was working as gangman in Paruthiyur village due to the fall of electric pole he sustained injuries and the petitioners were also working along with the deceased, thereby without ascertaining the strength of the electric pole they tied the rope in the electric pole of transformer and therefore due to the negligence of the petitioners the deceased died. The petitioners also filed compensation under the relevant act and without prejudice to his claim compensation this Court may pass appropriate orders..



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

7. As per the case of prosecution the deceased was working as gangman in TANGEDCO, while he was fixing electric pole and while transferring the pole he sustained injuries and thereafter he died. Merely because falling of electric pole criminal liability cannot be fastened on the petitioners who are Engineers and co-workers of the deceased. The first petitioner was working as Junior Engineer, TANGEDCO and the second petitioner was a contract labour. While so there is no negligence on the part of the petitioners for the death of the deceased.. To attract the provision under Section 106 of BNS there should be some nexus on the negligence on the part of the petitioners but in this case there is no negligence on the part of the petitioners.

8. The learned counsel appearing for the petitioners relied on the following judgements:

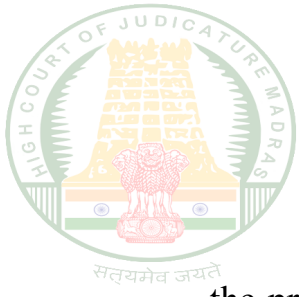
a) Nanjundappa and another .vs. The State of Karnataka reported in 2022 livelaw (SC)489

b) Sri Vishwas .vs. The State of Karnataka and others reported in 2022 Supreme(Kar)593



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9. On a careful perusal of the above judgements they revealed that doctrine of *res ipsa loquitur stricto sensu* would not apply to a criminal case as its applicability in an action for injury by negligence is well known and such simplified and pragmatic application of the notion of the *res ipsa loquitur* , as a part of the general mode of inferring a fact in issue from another circumstantial fact is subject to all the principles the satisfaction of which is essential before an accused can be convicted on the basis of circumstantial evidence alone. The cause of death should be a direct consequence of the accused's act, which should be either rash or negligent and proximate to the cause of such death. In the case on hand also the deceased died due to fall of electric pole and there is not direct nexus between the acts petitioners and the death of the deceased and there is no evidence for the cause of death of the deceased. Further the first respondent police without conducting proper investigation filed final report and the same was also taken on file by the trial Court. Therefore merely because this petitioner is also engaged in the said work along with the deceased and without any materials this petitioners cannot be fasten for criminal liability without any sufficient materials, thereby the pending proceedings are liable to be quashed.



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10. Accordingly the Criminal Original Petition stands allowed and the proceedings in C.C.No.220 of 2024 on the file of the learned Judicial Magistrate, Oddanchatram, Dindigul District is hereby quashed as against these petitioners. Consequently connected miscellaneous petitions stand closed.

25.04.2025

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

1. The Judicial Magistrate, Oddanchathiram, Dindigul District
2. The Inspector of Police
Kallimandiyam Police Station
Dingidul District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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