



CRL.OP(MD) NO.6510 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL.O.P(MD) No.6510 of 2025

and

CRL.M.P.(MD).No.4940 of 2025

E.Dhanarajan

... Petitioner

.VS.

1. The Inspector of Police,
Thirunagar Police Station,
Madurai District.
(Crime No.579 of 2009)

2. R.Ramesh

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records pertaining in C.C.No.128 of 2017 on the file of the learned Judicial Magistrate, Thirumangalam, Madurai District and quash the same.

For Petitioner : Mr.C.Muthusaravanan

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

For R2 : Mr.J.C.Rathinavel Pandian



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ORDER

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This petition has been filed by the petitioner / Sole Accused to call for the records pertaining to C.C.No.128 of 2017 on the file of the Judicial Magistrate, Thirumangalam for the offences under Sections 283 and 304 (A) of IPC, in Crime No.579 of 2009 and quash the same.

2. The case of the prosecution is that the father of the defacto complainant worked as security in SBOA School in Nagamalai, Pudukottai. On 01.10.2009, when his father went to work by 7.30 a.m was on the way back home by 8.15 p.m by cycle, the 2nd respondent accompanied by his friend R.Vinoth were on the same way following his father. On the way to the house, there found to be pit admeasuring 10 ½ feet on both sides of the road, which was dug to install water pipeline. The father of the 2nd respondent unaware of the pit ahead fell into it. Mr.M.Muthupandian and S.Selvakumar, friends of the 2nd respondent, who came that way, helped them to lift his father out of the pit. He was found dead with bruises in right eye and back side of the head. The alleged cause of death as stated in the complaint is that there was no warning board, signal light or barricades on the site of the incident and the pit being left open. Hence the case.

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3. When the matter was taken up for hearing, the learned counsels on both sides represented that the matter has been amicably settled between the parties and to that effect, they have entered into a compromise and the same was filed before this Court.

4. Today, the petitioner along with the defacto complainant are present and they filed a joint compromise memo. The 2nd respondent / defacto complainant has stated that he received compensation of Rs.7,50,000/- from the petitioner through the order passed by this Court in W.A.(MD) No.669 of 2025 dated 01.04.2025 for the death of his father, who is died in the accident, to that effect, this Court also granted liberty to compromise the matter between the parties in respect of C.C.No.128 of 2017. The defacto-complainant also represented that they entered into a compromise and he has no objection to quash the pending proceedings in C.C.No.128 of 2017. A compromise memo, dated 07.04.2025 signed by the parties and their respective counsel, is also filed before this Court.

5. The learned counsel appearing for the petitioner relied on the following judgements:

a) Nanjundappa and another .vs. The State of Karnataka reported in



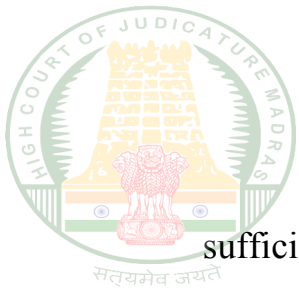
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2022 livelaw (SC)489.

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

6. 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 in the pit and there is no direct nexus between the acts petitioner and the 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 contractor for the said work without any materials this petitioner cannot be fasten for criminal liability without any



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sufficient materials, thereby the pending proceedings are liable to be quashed.

7. Considering the nature of the offences and the parties also entered into a compromise, it is appropriate to allow this petition.

8. Recording the said compromise memo dated 07.04.2025, this Criminal Original Petition is allowed and C.C.No.128 of 2017 on the file of the Judicial Magistrate, Thirumangalam is quashed. Consequently, connected criminal miscellaneous petition is also closed.

28.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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P.DHANABAL, J.

Mac

To

1. The Judicial Magistrate,
Thirumangalam.
2. The Inspector of Police,
Thirunagar Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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and
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