

(2002) 07 MAD CK 0016

In the Madras High Court

Case No : Criminal O.P. No. 24000 of 2000 and Criminal M.P. No's. 9175 and 9176 of 2000

Mr. R. Udayakumar

APPELLANT

Vs

Thiru S. Muthu Kumar, B.E., Inspector of Factories, Division-I,
Madurai

RESPONDENT

Date of Decision : 25-07-2002

Acts Referred:

Citation : (2005) 2 LW(Cri) 770

Hon'ble Judges : A. Packiaraj, J

Bench : Single Bench

Advocate : Ar. L. Sundaresan, for the Appellant; V. Arul, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

A. Packiaraj, J.—This is a petition to quash the private complaint filed against the petitioner by one S. Muthukumar, Inspector of Factories,

Division-I, Madurai under Rule 61(f) of the Factories Act.

2. The substance of the complaint is that on 20.3.2000 the tanker bullet lorry bearing registration No. TCX 1677 had been unloading the goods at

the factory. At that time, the cleaner Lakshmana Pandian, aged about 20 years went below the tanker lorry and slept. The lorry driver, without

taking proper care, started the vehicle as a result of which, the lorry ran over the said Lakshmana Pandian and he died. Hence, a case against the

lorry driver was registered under Sec.304-A, I.P.C.

3. The complaint against the petition was filed by the respondent herein for having violated Rule 61(f) of the Factory Rules. The said clause reads

as follows:-

No process of Work shall be carried on in any factory in such a manner as to cause risk of bodily injury.

4. The Learned Counsel for the petitioner would argue that the deceased did not die on account of any process of work, which was being carried

on, and which resulted in the accident. The cleaner was taking shelter under the unloading vehicle and the said act does not come under the

definition of the "work" contemplated under Rule 61(f) of the said Rules.

5. However, the learned Government Advocate would argue that the lorry had been allowed only for the purpose of un-loading the goods and the

death of the said person was during the process of the goods being unloaded.

6. In the first place, it is to be seen that the complaint does not disclose the place where the tanker lorry was unloaded and where the tanker lorry

was parked when the deceased had taken shelter. Secondly, if an accident had taken place during the course of unloading, that is to say, a person

who was actually involved in the process of unloading or loading happens to meet with any accident, then the said rule will come into play. But

when the deceased had taken shelter under the lorry, it cannot come under the category contemplated under Rule 61(f) of the said Rules. Hence, I

have no hesitation to hold that the prosecution initiated against the petitioner is not maintainable and hence, it is quashed. Consequently, connected

Crl.M.P. is closed.