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Shafi and Others Vs. State of Karnataka

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Court : Karnataka Gulbarga

Decided On : Mar-28-2011

Judge : Mohan Shantanagoudar

Appeal No. : Criminal Petition No.15227 of 2011

Appellant : Shafi and Others

Respondent : State of Karnataka

Advocate for Pet/Ap. : For the Petitioners: N. Chandrashekaharayya, Advocate. For the Respondent: Anuradha M. Desai, State Public Prosecutor.

Judgement :

1. Heard the learned Counsel appearing for the petitioners and the learned Government Advocate for respondent.

2. Sri Jannatul, S/o. Mastak, lodged a complaint on 20.2.2011 alleging the offences punishable under Sections 336, 337, 338 of IPC, against the petitioners and others. The same is registered in Crime No.25/11 in Yapaldinni Police Station.

3. The petitioners are the Engineers of the Karnataka Power Transmission Corporation Limited (KPTCL). The work of drawing new electrical line from Jurala Project in Andhra Pradesh to Raichur is in progress. The work of drawing the electrical line has been entrusted to the Contractor by name M/s. Vencer Electrical Company, Hyderabad. Accused Nos.1 to 5 (not before the Court) are the Officers

of the Contractor Company. While entrusting the work, the KPTCL entered into contract with the Contractor Company. Clause 31.10 of the contract deals with `Work and Safety Regulations'. Clause 31.1. of the contract reads thus:-

"31.1. The Contractor shall ensure proper safety of all the Workmen, Materials, Plant and Equipments belonging to him or to KPTCL or to others working at the Site. The Contractor shall also be responsible for provision of all safety Notices and safety Equipment required both by the relevant Legislation and the Engineer, as he may deem necessary."

To execute the work, the complainant and another person viz., Fareeduddin S/o. Istaf Ali, climbed tower having height of 30 mtrs. at about 4.30 p.m. on 20.2.2011. When they were at work, the tower bent outside and consequently the complainant and Fareeduddin fell to the ground and the same has resulted in injuries to the complainant and Fareeduddin. The complaint reveals allegations against the officials of the Contractor as well as the petitioners herein.

It is not in dispute that the work is entrusted to the Contractor. The aforementioned Clause of the contract reveals that it is the responsibility of the Contractor to provide safety measures. Thus, the petitioners who are the Engineers of KPTCL are not duty bound to provide safety measures to workers. When the work order is issued to the Contractor, it is for him to provide safety measures to the workers. The officials of the KPTCL are responsible to oversee the quality of the work. The rest of the responsibility is on the Contractor. Therefore, the criminal proceedings initiated against the petitioners on the ground that the petitioners did not provide safety belts and helmets, cannot be sustained. Safety belts and helmets as well as other safety measures will have to be provided by the Contractor while entrusting the work to his employees. In view of the same, the proceedings in Crime No.25/2011, initiated against the petitioners are liable to be quashed. Accordingly, the following order is made.:-

The proceedings in Crime No.25/2011, stand quashed in so far as they relate to the petitioners herein are concerned. The proceedings as against other accused shall go on.

Petition is allowed accordingly.

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