

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.2685 OF 2014

Between:

NTPC Limited rep. by its General Manager
and others. ... Petitioners

And

The State of A.P, rep. by its Public Prosecutor
and another. ... Respondents

DATE OF JUDGMENT PRONOUNCED: 08.09.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K.SURENDER

+ CRL.P. No.2685 of 2014

% Dated 08.09.2022

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and others.

... Petitioners

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..Respondents

! **Counsel for the Petitioners:** Sri K.V.Subrahmanya Narusu.

^ **Counsel for the Respondents:** Public Prosecutor for R1

> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL PETITION No.2685 OF 2014

ORDER:

1. The petitioners/A1 to A3 are aggrieved by the order of taking cognizance by the Judicial Magistrate of First Class, Godavarikhani vide CC NO.79 of 2014 against the petitioners, on the basis of private complaint for the offence under Sections 202 and 304-A of IPC.

2. Briefly, the facts of the case are that the complainant Chittempalli Srinu filed private complaint stating that on 18.06.2013, the deceased, who is his friend met with fatal accident while he was standing on the platform inspecting the repair work of the arresting online of steam leakage from the pipeline. Suddenly, the H.P. steam line busted and steam inside the pipe line came out and hit the victim and the victim fell on the floor from about 5 meters. He received grievous burn injuries and died on 19.06.2013.

For the reason of the petitioners, who are Company, General Manager (O & M) and General Manager of 1st petitioner company, having not taken proper precautions to

prevent the accident and that they have sent the victim on duty without providing suitable gear for protection, Petitioners are liable. A complaint was lodged to the police, the police have refused to take complaint for which reason, private complaint was filed.

3. Learned counsel for the petitioners submits though precautions were taken accident had occurred. The Director of Factories, A.P. has examined the incident and after conducting enquiry recommended that action should be dropped against the Management of NTPC. Accordingly, the Government of Andhra Pradesh issued Memo No.7243/Lab.II/A2/2013-2, dated 27.01.2014 issued by the Principal Secretary to Government, on behalf of the Government of Andhra Pradesh. The said notification was issued after enquiry was conducted and report filed.

4. The complaint that was made before the Court discloses that death occurred on account of bursting of steam line. Nothing is placed before the learned Magistrate regarding the infrastructure that was provided and also the requisite

protections that were taken or not taken. A vague allegation that the petitioners are responsible for the accident for not taking proper precautions would not suffice.

5. Unless it is shown that there are acts which are done deliberately in negligent manner having knowledge about the consequences, Section 304-A of IPC is not attracted. Nothing is stated in the complaint as to how the second petitioner as the General Manager (O&M) and also the third petitioner as General Manager were responsible for the accident.

6. NTPC is India's largest energy conglomerate with roots planted way back in 1975 to accelerate power development in India. Since then it has established itself as the dominant power major with presence in the entire value chain of power generation business. From fossil fuels it has forayed into generating electricity via hydro, nuclear and renewable energy sources. This foray will play a major role in lowering its carbon footprint by reducing green house gas emissions. To strengthen its core business, the corporation has diversified into the fields of consultancy, power trading, training of power

professionals, rural electrification, ash utilization and coal mining as well.

7. The 2nd and 3rd petitioners have nothing to do with the establishment of the PSU/NTPC or the infrastructure. The process of construction was undertaken long prior to the appointment of 2nd and 3rd petitioners as General Managers.

8. Section 202 of Cr.P.C reads as follows:

“200. Examination of complainant. A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate: Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses-

(a) if a public servant acting or- purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192: Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re- examine them.”

9. In the complaint, there is no allegation as to how an offence under Section 202 IPC is attracted. The incident is known to one and all and also enquiry was conducted regarding the said accidental death. In the said circumstances, the question of petitioners intentionally omitting to give information regarding offence being committed does not arise.

10. As already discussed above there is nothing in the complaint to suggest that the petitioners have done any rash or negligent act having knowledge about its consequences. The Court cannot proceed on an assumption that the petitioners are liable for the death without any proof of negligence only for the reason of accidental death. The Director of Factories, A.P. has examined the incident and after conducting enquiry recommended that action should be dropped as no offence was made out. The family of the deceased was adequately compensated.

11. The 2nd and 3rd petitioners, who are General Managers were appointed long after the 1st petitioner company was established. It is not the case that the 2nd and 3rd petitioners

were in any way responsible for the establishment of steam line equipment and there were any deliberate violations or flouting of any of the conditions that were required to be followed. In the said facts and circumstances, no case is made out against the petitioners for the offences under Sections 202 and 304-A of IPC.

12. In the result, the proceedings against the petitioners/A1 to A3 in CC No.79 of 2014 are liable to be quashed and accordingly quashed.

13. The Criminal Petition is allowed.

K.SURENDER, J

Date: 08.09.2022

Note: LR copy to be marked.

B/o.kvs

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.2685 OF 2014

Date: 08.09.2022.

kvs

