

CNR- MHAK-01-002471-2018

S.T. Case No.95/2018
State Vrs. Pakash +1**ORDER BELOW EXH.07***(Dated : 16.12.2019)*

1] The present application is filed by the applicant/accused No.1 under section 227 of Cr.P.C. for discharge.

2] The applicant contended that he is residing at Akola, since his birth. He is having residential property as well as agricultural property situated within the jurisdiction of this Hon'ble court. He further contended that he is filing present application for discharge as there is no prima facie material against him. He further contended that on 08.06.2018 at about 3.00 pm. He had received phone call from the manager that one boy had sustained electric shock while he was enjoying rain dance. Therefore, he immediately went to the place of incident and found that the boy had sustained electric shock and was lying on the ground. He immediately asked his servant to take boy to medical hospital at Akola. He inquired with the relatives of said boy and his manager, as to how he had sustained electric shock. His manager informed him that the boy after enjoying rain dance amusement had crossed the boundary and went to the well which is encircled by iron wire and he touched it, because of which he sustained electric shock. He further contended that from the perusal of charge-sheet it appears that the ingredients of section 304 of IPC are not attracted against him. He is running amusement park from the year 2013, and such type of incident had not occurred. The incident has occurred because of the negligence of the deceased as he had crossed the restricted area and had

touched the open electric wire. He further contended that the Inspector of MSEDCL had conducted preliminary inquiry. He has given finding that none of the accused can be held responsible for the incident. He has further opined that the incident has occurred because of leakage of electric current. He further contended that as there is no material to frame charge against him, he be discharged from the offence.

3] Learned APP filed his say at Exh.10. He contended that the offence is serious in nature. The applicant is the owner of said amusement park. He has not taken proper care while running his amusement park. He further contended that there is report of MSEDCL that the applicant along with his staff has brought the supply of many point at one place, due to which the current had passed in the earthing and said incident had occurred. He further contended that the applicant had not obtained proper permission to run the amusement park. There is prima facie material available against the applicant and prayed that the application be rejected.

4] On the basis of argument advanced by the learned advocates appearing for parties and the material available on record, following points arise for my determination and I answer them for the reasons stated below.

Sr.No.	Points	Findings
1	Whether there is sufficient material on record to proceed against applicant ?	Yes
2	What order ?	Application is rejected as per final order.

Reasons

5] Heard learned advocates appearing for parties.

6] **As to point No.1** :- On perusal of material available on record it appears that the deceased boy had sustained electric shock near the well which was near the rain dance. There is report of Engineer of MSEDCL on record stating that on 09.06.2016 MSEDCL gave intimation to their customer, but the customer had not taken care of it. As per their inspection, the customer had brought supply of many points at one place due to which the current had passed in the earthing and the accident had occurred. The report of the Engineer of MSEDCL prima facie shows that the customer i.e. present applicant and the manager had brought supply of many point at one place, because of which the incident had occurred. The applicant and his manager were having knowledge that any person who comes near the well where they have brought the supply of many electric points it may cause death of said person. The material available on record shows that the applicant was having knowledge that his act is likely to cause death of any person. Therefore, it appears that there is prima facie material available on record to proceed against the applicant. Hence, I answer point No.1 as “Yes” and proceed to pass following order.

Order

1] Application is rejected.

Date : 16.12.2019

[H.K.Bhalerao]
Addl. Sessions Judge, Akola.

Certificate.

I affirm that the contents of this P D F file are same word for word as per original order.

*Name of the Steno : A.R.Raipure
Court's name : District Judge II & Addl. Sessions
Judge, Akola.
Date of decision : 16.12.2019
Signed by P O on : 24.12.2019
Uploaded on : 24.12.2019*