

## CRIMINAL REVISION

*Present :The Hon'ble Mr. Justice Prasenjit Mandal*

**C.R.R. No.3195 of 2007**

Judgement On: June 15, 2010.

Prakriti Kant Saran

Versus

The State of West Bengal & Anr.

**POINTS**

QUASHING – The entire roof of the mechanical department of the Anglo India Jute Mill collapsed, six workers of the mill died – Whether Section 92 of the Factories Act would be applicable i.e. the occupier and Manager of the said factory shall be guilty for the offence – OR – Whether the management of the factory is to look after the building and they are to take adequate measures for protection of the life of the workers – Code of Criminal Procedure 1973, S 482 – Factories Act , S 92.

**FACTS**

The facts giving rise to the filing of this application for quashing of the proceeding are that the petitioner is the Vice-President of Anglo India Jute Mill situated within the police station Jagatdal, District – North 24 Parganas. On 08.09.2006 at 21-50 hours while the employees of the said mill were working, the entire roof of the mechanical department of the said mill collapsed and a good number of workers were buried under the debris. As a result, six workers of the mill died on the spot and another was in critical condition and he was admitted to a hospital. On the basis of a written complaint, Jagatdal Police Station started a criminal case under Section 325/304/34 of the

I.P.C. against the present petitioner and other officers of the management. Now the petitioner has come up with this application for quashing the proceeding on the ground that according to the provisions of Section 92 of the Factories Act, the occupier and Manager of the said factory shall be guilty for the offence and so he has made the prayer for quashing the proceeding.

**HELD**

This factory is going on for a long period since the British time. Previously, some portion of the roof collapsed resulting in death of one workman of the said mill. The representatives of the worker met the management for repair of the roof of the same but the management did not pay any heed to the request of the workers. Thereafter, the said accident took place resulting in spot dead of six workers and serious injury of one person who was admitted to a hospital at once. The Jagatdal P. S. started investigation on the basis of a complaint under the above noted Sections which are the general law of the land. This has nothing to do with the provisions of the Factories Act.

Para 3

The management of the factory is to look after the building and they are to take adequate measures for protection of the life of the workers.

Para 4

For the petitioner: Mr. Milon Mukherjee.

For the State: Mr. Swapan Mullick.

**Prasenjit Mandal, J:**

**THE COURT** 1.This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed for quashing the proceeding of G. R. Case No.2348 of 2006 pending before the Court of Learned Additional Chief Judicial Magistrate, Barrackpore with reference to the Jagatdal P. S. Case No.337 dated 08.09.2006 under Sections 325/304/34 of the I.P.C.

2.The facts giving rise to the filing of this application for quashing of the proceeding are that the petitioner is the Vice-President of Anglo India Jute Mill situated within the police station Jagatdal, District – North 24 Parganas. On 08.09.2006 at 21-50 hours while the employees of the said mill were working, the entire roof of the mechanical department of the said mill collapsed and a good number of workers were buried under the debris. As a result, six workers of the mill died on the spot and another was in critical condition and he was admitted to a hospital. On the basis of a written complaint, Jagatdal Police Station started a criminal case under Section 325/304/34 of the I.P.C. against the present petitioner and other officers of the management. Now the petitioner has come up with this application for quashing the proceeding on the ground that according to the provisions of Section 92 of the Factories Act, the occupier and Manager of the said factory shall be guilty for the offence and so he has made the prayer for quashing the proceeding. I have perused the case diary of the G. R. Case No.2348 of 2006 with regard to the relevant Jagatdal P. S. Case No.337 dated 08.09.2006 under Sections 325/304/34 of the I.P.C.

3.Having considered the submissions of the learned Advocate of both the sides and on perusal of the materials on record and also on consideration of the C.D., I find that the petitioner is the Senior Vice-President of the Anglo India Jute Mill situated under the Police Station Jagatdal, District – North 24 Parganas. This factory is going on for a long period since the British time. Previously, some portion of the roof collapsed resulting in death of one workman of the said mill. The representatives of the worker met the management for repair of the roof of the same but the

management did not pay any heed to the request of the workers. Thereafter, the said accident took place resulting in spot dead of six workers and serious injury of one person who was admitted to a hospital at once. The Jagatdal P. S. started investigation on the basis of a complaint under the above noted Sections which are the general law of the land. This has nothing to do with the provisions of the Factories Act.

4. Upon due consideration of the materials placed before me, it appears that the management of the factory is to look after the building and they are to take adequate measures for protection of the life of the workers.

5. Mr. Mukherjee, learned Advocate for the petitioner, contended that according to the provisions of Section 92 of the Factories Act and the rules made thereunder, the occupier and the manager are responsible for violation of any provision of the Act. Here, I may note that the said G. R. Case has not been lodged under any provision of the Factories Act, 1948 but under the general law of the land, i.e. under the provisions of the I.P.C. For convenience, I am quoting the Section 92 of the Factories Act which clearly lays down that when any contravention of any of the provisions of the Act or rules thereunder occurs, the occupier and manager of the Factory shall be held guilty for the offence and they shall be punished.

*“S. 92 General Penalty for offences. Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and shall be punished with imprisonment for a term which may extend to (two years) or with fine which may extend to (one lakh rupees) or with both, and if the contravention is continued after conviction, with a*

*further fine which may extend to (one thousand rupees) for each day on which the contravention is so continued. ....”*

6.The present G. R. Case being not one at all under the provisions of the Factories Act, 1948, I am of the view that the said Sections under the Factories Act, 1948 and the rules made thereunder are not applicable with the regard to the G. R. Case lodged against the accused persons. The criminal case can well proceed against the petitioner in accordance with law.

7.There is no bar to prosecute him under the general provisions of the law of the land.

8.Therefore, this application is devoid of any merit. It is, therefore, dismissed.

9.There will be no order as to costs.

Return the C.D. to the appropriate Court.

10.Urgent xerox certified copy of this order, if applied for, be supplied to the learned Advocates for the parties on their usual undertaking.

**( Prasenjit Mandal, J. )**