

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**BEFORE HON. SHRI JUSTICE ALOK VERMA,J**

**M.Cr.C. No.3606/2012**

1. **Eragam Sudhir Raddy S/o Shri Ella Raddy and**
2. **Kranthi Kumar Raddy S/o Shri Shyam Sunder Raddy**

**Vs.**

**Himanshu Soleman S/o Elvin**

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Shri Pratik Mehta, learned counsel for the applicants.  
None for the respondent.

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**ORDER**

**(Passed on 09/02/2015)**

This application is filed under section 482 Cr.P.C. and is directed against proceedings in criminal complaint No.1286/2011 pending before the Court of ACJM, Jhabua.

2. Brief facts are that the present applicant No.1 is Chairperson and Managing Director of IVRCL Infrastructures and Projects Ltd. and the applicant No.2 is Deputy General

Manager and Factory Manager of the Company. According to the facts stated in the complaint, an accident took place in the batch mix plant of the company in which a labourer Mangalsingh died. As alleged in the complaint correct work procedure was not adopted and necessary security measures were not taken by the company due to which the accident occurred. The matter was enquired into by factory inspector and he prepared an enquiry report dated 15.06.2011 and thereafter based on this enquiry report the present complaint was filed before the Court of ACJM, Jhabua on 02.09.2011 under sections 7-A(2)-(a) r/w section 73(e) and section 92 of Factories Act and also violation of corresponding rules under M.P. Factories Rules 1962.

3. According to applicants IVRCL Infrastructures and Projects Ltd. is a company incorporated under Companies Act 1956. The company is involved in road construction and was awarded project work by National Highway Authority of India to develop roads from Indore, Jhabua and Gujarat. The company had three units Indore, Dhar and Jhabua and separate site incharge were appointed for each projects. On 06.02.2011 at Jhabua unit an accident took place while a maintenance

work was in progress. The labourer Mangalsingh was working in bitching plant suddenly sand and stone dropped on him due to which he sustained grievous injuries. He was taken to hospital where he was declared brought dead.

4. According to applicants the company paid a compensation of Rs.8,76,600/- under Workman Compensation Act. A criminal case was also registered under sections 287 and 304-A of IPC by Police Station Jhabua which is also pending before the Court of CJM, Jhabua. On 15.06.2011, the non-applicant who was working as factory inspector at relevant time visited the factory after giving them notice and thereafter, the private complaint is filed.

5. In the backdrop of these facts, this application is filed on the following grounds, namely :-

(i) That the present applicants are not responsible for any accident caused in the factory. They were not immediate incharge of the factory. The applicant No.1 is a Chairperson and he is responsible for overall administration of the company and the company has appointed its officers at every site to take care of daily routine work.

(ii) That considering the well established principle of criminal law, only those persons who are present at the spot and was responsible for working at site can be held responsible for any mishap and not the person who are neither physically present nor the incharge of the site.

(iii) The death occurred due to negligence of the worker himself and the company is not responsible.

(iv) All security measures were provided to do to the worker.

6. On the basis of these grounds, it is prayed that the proceedings pending before the Court of ACJM, Jhabua in criminal complaint No.1286/2011 be quashed.

7. After taking the arguments of the learned counsel for the complainant into consideration, as even after notice served on the respondent, none appears on his behalf, I find that this application is filed against the order passed by the learned Chief Judicial Magistrate on 02.09.2011 by which the learned Magistrate took cognizance under the aforementioned sections of Factories Act. The main ground for seeking quashment of

proceedings against these applicants appear to be that they were not site incharge and were not responsible for any accident that occurs of any of the site maintained by the company. They were remotely connected and only responsible for administrative part of the operations. However, prima-facie in the cause title of the application, the applicant No.1 is described as Occupier of the factory and applicant No.2 is described as Factory Manager. Under section 92 of Factories Act, the occupier and the manager of the factories are responsible for any violation in the Factories Act. This apart, the present applicants did not file any application seeking finding of the Court on these points and also whether simultaneous proceedings under Factories Act and one under section 304 -A of IPC can proceed simultaneously which arise from the same set of facts.

**8.** At this stage, it does not appear that there is any abuse of process of Court. The complaint is filed by the factory inspector after completion of all the formalities and the present applicants if they have any grievance against the complaint may raise all such objections against the complaint filed against them. They may move the concerned Court of

Magistrate and when any inference which may be adverse to them is drawn by the concerning Court then they may approach this Court.

9. Accordingly, at this stage, I find that there is no abuse of process of Court, the application is dismissed. However, an opportunity is granted to the present applicants to file application before the Court raising all the relevant points before the concerning Court and after these points are decided by the concerning Court they may again approach this Court under relevant provision of law.

10. With that observation and direction, this application stands disposed of.

**( ALOK VERMA )  
JUDGE**