

Reserved on : 23.07.2024
Pronounced on : 06.08.2024



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 06TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.16281 OF 2024(GM-RES)

BETWEEN:

- 1 . SRI SREERAMU V.,
S/O VEERANAGAI AH
AGED ABOUT 46 YEARS
EXECUTIVE ENGINEER
BESCOM, WHITEFIELD DIVISION
BENGALURU – 560 066.
- 2 . SUBRAMANYA T.,
S/O LATE THOTLAPPA
AGED ABOUT 58 YEARS
ASSISTANT EXECUTIVE ENGINEER
BESCOM, WHITEFIELD DIVISION
BENGALURU – 560 066.

... PETITIONERS

(BY SRI D.R.RAVISHANKAR, SR. ADVOCATE FOR
SMT. SIRI RAJASHEKAR, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
KADUGODI POLICE STATION

KADUGODI COLONY
BENGALURU – 560 067.
REPRESENTED BY ITS
STATION HOUSE OFFICER
REPRESENTED BY ITS HCGP
HIGH COURT OF KARNATAKA BUILDING
DR. B.R.AMBEDKAR VEEDHI
BENGALURU – 560 001.

- 2 . SANTHOSH KUMAR
NO.01, ASIA STREET
A-BLOCK, MATTRUKUDII
RUPPU, NEYVELI, CUDDALORE
TAMILNADU – 607 801.

... RESPONDENTS

(BY SRI B.N.JAGADEESH, ADDL SPP FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO SET ASIDE THE FIR IN CRIME NO. 0601/2023, DTD. 19.11.2023, FOR THE OFFENCE PUNISHABLE UNDER SEC.304(A) OF THE IPC, 1860 FOR NEGLIGENCE REGISTERED BY THE RESPONDENT AT ANNEX-B, IN SO FAR AS THE PETITIONER ARE CONCERNED.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 23.07.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CAV ORDER

The petitioners are before this Court calling in question registration of a crime in Crime No.601 of 2023 registered for offence punishable under Section 304A of the IPC pending before the Additional Chief Judicial Magistrate (ACJM), Bengaluru Rural, Bengaluru. The 1st petitioner is the Executive Engineer and the 2nd petitioner is the Assistant Executive Engineer both working in BESCOM at Whitefield Division.

2. Heard Sri D R Ravishankar, learned senior counsel appearing for the petitioners and Sri B N Jagadeesh, learned Additional State Public Prosecutor appearing for respondent No.1.

3. Facts, in brief, germane are as follows:-

It is the case of the petitioners that on 19-11-2023 a complaint comes to be registered by the 2nd respondent/ complainant alleging that the complainant, his wife who was 23 years old and his daughter who was 9 months old were returning from Tamilnadu. After alighting at Silk Board they boarded BMTC

bus, alighted near Whitefield ITPL Main Road and were walking on the footpath. When they reached Hope Farm, the wife of the complainant who was carrying his daughter aged 9 months old comes in contact with the live wire which was broken and lying on the street. The wife of the complainant due to electric shock of live wire died on the spot along with the baby. Therefore, the complaint comes to be registered against several officers, two of whom are the petitioners, officers of BESCO, accused No. 1 is the Executive Engineer and accused No.3 is the Assistant Executive Engineer working at Whitefield Division. The other accused are the Assistant Engineer, accused No.2; Junior Engineer, accused No.4 and Station Operator, accused No.5.

4. The said incident of death of the wife and the daughter of the complainant became a hue and cry in the locality. It is then, the 1st petitioner was transferred and the 2nd petitioner was placed under suspension. The 1st petitioner's transfer became subject matter of challenge before this Court in Writ Petition No.27441 of 2023. A coordinate Bench of this Court sets the transfer order aside holding that the transfer was contrary to the Government order

dated 7-06-2013. Likewise, the 2nd petitioner calls the order of suspension in question before this Court in Writ Petition No.27348 of 2023. The suspension order also comes to be quashed by the very coordinate Bench. After quashment of those two orders, challenge is now laid to the crime so registered against the petitioners on the score that observations in the orders of quashment of transfer and suspension would enure to the benefit of the petitioners, to hold that for the death of the wife and the child of the complainant, the petitioners cannot be held responsible and . therefore, Section 304A of the IPC cannot be invoked.

5. The learned senior counsel appearing for the petitioners would vehemently contend that in terms of roles and responsibilities and the job chart, the petitioners have nothing to do with maintenance of wires. At best it could be the Assistant Engineer who may be responsible and the petitioners are Executive Engineer and Assistant Executive Engineer. It is his submission that no wrong doing can be directly attributed to the petitioners. He would place heavy reliance upon the report of Electrical Inspectorate which holds that it has happened due to high

impedence surface for which no wrong doing can be directly attributed to these petitioners. He therefore contends that ingredients of Section 304A of the IPC are not made out in the case at hand. He would seek quashment of registration of crime in Crime No.601 of 2023.

6. Per contra, the learned Additional State Public Prosecutor would refute the submissions to contend that the matter is still at the stage of investigation. The role, responsibility or act allowing the live wire on the street, upon which the wife and the child of the complainant trampled upon, is attributable to some officers, five of whom are named as accused. Everybody cannot wash off their hands on the basis of report of an officer of Electrical Inspectorate, who is an officer of BESCO. Therefore, investigation in the least is necessary in such cases.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The incident in the case at hand happens on 19-11-2023. The complainant and his wife were walking on the footpath of ITPL Main road, along with their 9 months old daughter, in the early morning hours at 6.00 a.m. A snapped or broken wire of 11 KV, F9 feeder of 66 KW was hanging which could not be noticed by the complainant or his wife. But his wife comes in contact with the live/broken wire and dies due to electrocution, at which time she was carrying 9 months old child also. It is the averment in the petition that two complaints had already been registered with the BESCO helpline seeking help to rectify the wire that was hanging by local residents. The vital accident happens near Hope Farm Circle at about 6-00 a.m. This results in huge hue and cry of the general public. Therefore, a report is sought from the Electrical Inspectorate in the form of an investigation. The investigation leads to absolving of all the officers. The report insofar as it is germane reads as follows:

“... ..”

ಉ.ಅಭಿಪ್ರಾಯ & ನಿಯಮಗಳ ಉಲ್ಲಂಘನೆ:

ಅಪಘಾತದ ಸ್ಥಳ ಪರಿವೀಕ್ಷಣೆ ನಡೆಸಿ, ತನಿಖೆಯ ಸಮಯದಲ್ಲಿ ಲಭ್ಯವಾದ ಸಾಕ್ಷ್ಯಾಧಾರಗಳು, ಹೇಳಿಕೆಗಳು, ಅವಲೋಕನಗಳು ಮತ್ತು ದಿನಾಂಕ:19.11.2023 ರ 66 ಕೆವಿ / II ವಿದ್ಯುತ್ ವಿತರಣಾ ಕೇಂದ್ರ ಕಾಡುಗೋಡಿಯ ಇಲ್ಲಿನ ಲಾಗ್ ಪುಸ್ತಕ, ಕಾರ್ಯ ನಿರ್ವಾಹಕ ಅಭಿಯಂತರರು, ಆರ್.ಟಿ ದಕ್ಷಿಣ ವಿಭಾಗ, ಕೆ.ಪಿ.ಟಿ.ಸಿ.ಎಲ್. ರಾಜಾಜಿನಗರ, ಬೆಂಗಳೂರು ರವರ ವರದಿ, ಅಧೀಕ್ಷಕ ಅಭಿಯಂತರರು(ವಿ),

ಸ್ವಾಡಾ ಕೆ.ಪಿ.ಟಿ.ಸಿ.ಎಲ್, ಬೆಂಗಳೂರು ರವರ ಸ್ವಾಡಾ ವರದಿ ಹಾಗೂ ಮೈತ್ರಿ ಬಡಾವಣೆಯ 2ನೇ ಮುಖ್ಯ ರಸ್ತೆಯಲ್ಲಿರುವ ಔದುಂಬರಾ ಹೋಮ್ ಅಪಾರ್ಟ್‌ಮೆಂಟ್ ವಿದ್ಯುತ್ ಸ್ಥಾವರದ ಬಳಿ ದೊರೆತ ಸಾಕ್ಷ್ಯಾಧಾರಗಳನ್ನು ಕೂಲಂಕೂಷವಾಗಿ ಪರಿಶೀಲಿಸಲಾಗಿ “ದಿನಾಂಕ:19.11.2023ರಂದು ಬೆಳಗಿನ ಜಾವ ಸುಮಾರು 03.50 ರ ಸಮಯದಲ್ಲಿ ಔದುಂಬರಾ ಹೋಮ್ ಅಪಾರ್ಟ್‌ಮೆಂಟ್‌ನ ಎಲ್.ಬಿ.ಎಸ್ ನಲ್ಲಿ ಬಹುಶಃ ಇಲಿಯು ನುಸುಳಿ, ಎಲ್.ಬಿ.ಎಸ್ ನ ಹಿಂಭಾಗದ ಬಸ್‌ಬಾರ್‌ನಲ್ಲಿ ಹಾದುಹೋಗುವಾಗ ಎರಡು ಬಸ್ ಬಾರ್‌ನ ಸಂಪರ್ಕಕ್ಕೆ ಬಂದ ಕಾರಣ ಬಸ್ ಬಾರ್‌ನಲ್ಲಿ ಶಾರ್ಟ್ ಆದ ಸಮಯದಲ್ಲಿ ಶಾರ್ಟ್ ಸರ್ಕ್ಯೂಟ್ ಕರೆಂಟ್ ಮತ್ತು ಅರ್ಥ್ ಫಾಲ್ಟ್ ಕರೆಂಟ್ ಪ್ರವಹಿಸಿ ಸದರಿ ಪಾಲ್ಟ್ ಕರೆಂಟ್ 66 ಕೆ.ವಿ/11 ಕೆ.ವಿ ವಿದ್ಯುತ್ ವಿತರಣಾ ಕೇಂದ್ರ ಕಾಡುಗೋಡಿಯ ಸುರಕ್ಷತಾ ರಿಲೆಯಲ್ಲಿ ಗುರುತಿಸಿ ಡಬಲ್ ಓ.ಸಿ.ಆರ್/ಇ.ಎಫ್.ಆರ್ ಮೇಲೆ 11 ಕೆ.ವಿ F9 ವಿದ್ಯುತ್ ಮಾರ್ಗಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಬ್ರೇಕರ್ ಟ್ರಿಪ್ ಆಗಿರುತ್ತದೆ. ಶಾರ್ಟ್ ಸರ್ಕ್ಯೂಟ್ ಕರೆಂಟ್ 11 ಕೆ.ವಿ. F9 ವಿದ್ಯುತ್ ಮಾರ್ಗದಲ್ಲಿ ಪ್ರವಹಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ “ಬೆಂಗಳೂರಿನ ವೈಟ್‌ಫೀಲ್ಡ್ ಮುಖ್ಯರಸ್ತೆಯಲ್ಲಿರುವ ಹೋಮ್ ಫಾರಂ ಜಂಕ್ಷನ್ ಹತ್ತಿರದ (ಮಹದೇವಪುರ-ಚಿನ್ನಸಂದ್ರ ರಸ್ತೆಯ ಎಡಬದಿಯ) ಪುಟ್‌ಪಾತ್‌ನಲ್ಲಿರುವ 11 ಕೆ.ವಿ F9 ವಿದ್ಯುತ್ ಮಾರ್ಗದ “ಬಿ” ಫೇಸ್ ವಾಹಕದಲ್ಲಿ 4412 ಆಂಪ್ಸ್ ವಿದ್ಯುತ್ ಪ್ರವಹಿಸಿದ್ದರಿಂದ ಮತ್ತು ಸದರಿ ವಾಹಕವು ತುಂಬಾ ಹಳೆಯದಾಗಿದ್ದರಿಂದ ಮತ್ತು ಈ ಹಿಂದೆ ಜಾಯಿಂಟ್ ಹಾಕಲಾಗಿದ್ದ ಬಹುಶಃ ವೀಕ್ ಪಾಯಿಂಟ್‌ನಲ್ಲಿ ತುಂಡಾಗಿ ಪುಟ್-ಪಾತ್‌ನಲ್ಲಿದ್ದು ಪ್ಯಾವಿಕ್ ಸ್ಲಾಬ್‌ಗಳ ಮೇಲೆ ಬಿದ್ದಿರುತ್ತದೆ. ಬೆಳಗಿನ ಜಾವ ಸುಮಾರು 03.50ಕ್ಕೆ ಉಂಟಾದ ಪಾಲ್ಟ್‌ನಿಂದ 11 ಕೆ.ವಿ ಎಫ್-9 ವಿದ್ಯುತ್ ಮಾರ್ಗದ ಬಿ-ಫೇಸ್ ವಾಹಕವು ತುಂಡಾಗಿ ಪ್ಯಾವಿಕ್ ಸ್ಲಾಬ್‌ಗಳ ಮೇಲೆ ಬಿದ್ದಿದ್ದರೂ ಸಹ 03.55 ಕ್ಕೆ ಟೆಸ್ಟ್ ಚಾರ್ಜ್ ಮಾಡಿದಾಗ ಸದರಿ 11 ಕೆ.ವಿ ವಿದ್ಯುತ್ ವಾಹಕಕ್ಕೆ ಲಿಫ್ಟ್ ರೆಸಿಸ್ಟೆಂಟ್ ಪಾತ್ ಸಿಗದೆ ಇದ್ದ ಕಾರಣ ಸಂಬಂಧಿಸಿದ ರಿಲೆ ಸೆಟ್ ಕರೆಂಟ್ (ಓವರ್ ಕರೆಂಟ್ ಅಥವಾ ಅರ್ಥ್ ಪಾಲ್ಟ್ ಕರೆಂಟ್) ಜನರೇಟ್ ಆಗಿರುವುದಿಲ್ಲ ಮತ್ತು ಸದರಿ ವಾಹಕವು ವಿದ್ಯುತ್ ಸರಬರಾಜಾಗುತ್ತಿದ್ದ ಬದಿಯಿಂದ (ಸಪ್ಲೈ ಸೈಡ್) ಚೇತನಾವಸ್ಥೆಯಲ್ಲೇ ಇದ್ದು ವಾಹಕವು ತುಂಡಾಗಿ ಬಿದ್ದಿದ್ದ ಸ್ಥಳವು **High Impedence Surface** ಆಗಿರುತ್ತದೆ.

ಮುಂದುವರೆದು ಬೆಳಗ್ಗೆ ಸಮಯ 03.50 ರ ನಂತರ 11 ಕೆ.ವಿ ಎಫ್-9 ವಿದ್ಯುತ್ ಮಾರ್ಗದ ಬಿ-ಫೇಸ್‌ನಲ್ಲಿ ಕರೆಂಟ್ ಕಡಿಮೆ ಯಾಗಿರುವುದು ಮತ್ತು 03-50 ರಿಂದ 04.30 ರವರೆಗೆ ಟ್ರಾನ್ಸಿಯಂಟ್ ಕರೆಂಟ್ ಪ್ರವಹಿಸಿರುವುದು ಸ್ವಾಡಾ ವರದಿಯಿಂದ ತಿಳಿದುಬಂದಿರುತ್ತದೆ ಮತ್ತು **Fault current** ಭೂಮಿಗೆ ಹೋಗದೇ ಇರುವುದರಿಂದ, ಹೈ-ಇಂಪಿಡೆನ್ಸ್ ಪಾಲ್ಟ್ ವಿತ್ ಲೋ ಕರೆಂಟ್ ಜನರೇಟ್ ಆಗಿ ಆರ್ಕ್ ಉಂಟಾಗುತ್ತಿರುತ್ತದೆ. ಸುಮಾರು ಬೆಳಗ್ಗೆ 05.45 ಗಂಟೆ ಸಮಯದಲ್ಲಿಯೂ ಸಹ ಈ ಮಾರ್ಗವು ಚೇತನಾವಸ್ಥೆಯಲ್ಲಿಯೇ ಇರುತ್ತದೆ. ಇದೇ ಸಮಯದಲ್ಲಿ ಬೆಂಗಳೂರಿನ ವೈಟ್‌ಫೀಲ್ಡ್ ಮುಖ್ಯರಸ್ತೆಯಲ್ಲಿರುವ ಹೋಮ್ ಫಾರಂ ಜಂಕ್ಷನ್ ಹತ್ತಿರ ಶ್ರೀಮತಿ. ಸೌಂದರ್ಯ, ಇವರ ಮಗಳಾದ ಕು||ಸುವಿಕ್ಷಾ ಲಿಯಾ ಹಾಗೂ ಶ್ರೀಮತಿ ಸೌಂದರ್ಯ ರವರ ಪತಿಯಾದ ಶ್ರೀ ಸಂತೋಷ್ ಕುಮಾರ್ ರವರು ಬಸ್ ಅನ್ನು ಇಳಿದು, ಹೋಮ್ ಫಾರಂ ಜಂಕ್ಷನ್ ಹತ್ತಿರದ (ಮಹದೇವಪುರ-ಚಿನ್ನಸಂದ್ರ ರಸ್ತೆಯ ಎಡಬದಿಯ) ಪುಟ್‌ಪಾತ್‌ನಲ್ಲಿ ಶ್ರೀಮತಿ.ಸೌಂದರ್ಯರವರು ತಮ್ಮ ಮಗಳಾದ ಕು||ಸುವಿಕ್ಷಾ ರವರನ್ನು ಎತ್ತಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದು ಹಾಗೂ ಶ್ರೀಮತಿ ಸೌಂದರ್ಯ ರವರ ಪತಿಯಾದ ಶ್ರೀ ಸಂತೋಷ್ ಕುಮಾರ್ ರವರು ಸಹ ಸದರಿ ಪುಟ್‌ಪಾತ್‌ನ ಪಕ್ಕದಲ್ಲಿನ ರಸ್ತೆಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ಹೋಗುತ್ತಿದ್ದ ಸಮಯದಲ್ಲಿ ಶ್ರೀಮತಿ.ಸೌಂದರ್ಯ ಮತ್ತು ಮಗಳಾದ ಕು||ಸುವಿಕ್ಷಾ ರವರುಗಳು ಸದರಿ ಪುಟ್‌ಪಾತ್‌ನಲ್ಲಿ ತುಂಡಾಗಿ ಬಿದ್ದಿದ್ದ 11 ಕೆ.ವಿ. ಎಫ್-9 ವಿದ್ಯುತ್ ಮಾರ್ಗದ ಬಿ-ಫೇಸ್ ವಾಹಕದ ವಿದ್ಯುತ್ ಸರಬರಾಜಾಗುತ್ತಿದ್ದ (ಸಪ್ಲೈ ಸೈಡ್) ಬದಿಯ ಚೇತನಾವಸ್ಥೆಯಲ್ಲೇ ಇದ್ದ ವಾಹಕದ ಭಾಗದ ಸಂಪರ್ಕಕ್ಕೆ ಬಂದು ವಿದ್ಯುತ್ ಅಪಘಾತವಾಗಿರುತ್ತದೆ ಮತ್ತು ಸದರಿ ರವರುಗಳನ್ನು ರಕ್ಷಿಸಲು ಬಂದ ಶ್ರೀಮತಿ.ಸೌಂದರ್ಯ ರವರ ಪತಿಯಾದ ಶ್ರೀ ಸಂತೋಷ್ ಕುಮಾರ್ ರವರಿಗೂ ಸಹ ವಿದ್ಯುತ್ ಶಾಖ್ ಉಂಟಾಗಿರುತ್ತದೆ.” ಎಂದು ತನಿಖಾಧಿಕಾರಿಯವರ ವರದಿಯನ್ನಾಧರಿಸಿ ಅಭಿಪ್ರಾಯಿಸಲಾಗಿದೆ.”

ಸದರಿ ಅಪಘಾತಕ್ಕೆ ವಿದ್ಯುತ್ ಮಾರ್ಗವು ತುಂಡಾಗಿ ಪೇವರ್ -ಬ್ಲಾಕ್ (ಪುಟ್-ಪತ್) ಮೇಲೆ ಬಿದ್ದು **Low Fault current path** ಉಂಟಾಗಿ, ನಿಗದಿತ ಪಾಲ್ಟ್ ಕರೆಂಟ್ ಭೂಮಿಗೆ ಹೋಗದೆ ಇರುವುದರಿಂದ ಸಂಬಂಧಿಸಿದ ಇ.ಎಫ್.ಆರ್ ಮೇಲೆ ಟ್ರಿಪ್ ಆಗಲು ಬೇಕಾದ ನಿಗದಿತ ರಿಲೆ ಪಿಕ್-ಅಪ್ ಕರೆಂಟ್ ಪ್ರವಹಿಸದೇ ಇರುವುದರಿಂದ ಸಂಬಂಧಿಸಿದ ಇ.ಎಫ್.ಆರ್ ಟ್ರಿಪ್ ಆಗದೇ ಇರುವುದು ಪ್ರಮುಖ ಕಾರಣವಾಗಿದ್ದು ಸಹ, ಹಳಿದಾದ ಮತ್ತು ಶಿಥಿಲಗೊಂಡಿರುವ ವಿದ್ಯುತ್ ಮಾರ್ಗದ ವಾಹಕಗಳನ್ನು ಗಮನಿಸಿ ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಂಡು ವಿದ್ಯುತ್ ಮಾರ್ಗಗಳನ್ನು ಸುಸ್ಥಿತಿಯಲ್ಲಿಟ್ಟುಕೊಂಡಿದ್ದರೆ ಹಾಗೂ ಸಂಬಂಧಿಸಿದ ಎಲ್.ಬಿ.ಎಸ್ ನ ನಿರ್ವಹಣೆ ಮಾಡಿ ವರ್ಮಿನ್ ಪ್ರೂಪ್ ಹಾಗಿ ನಿರ್ವಹಿಸಿದ್ದರೆ ಹಾಗೂ ಸದರಿ ಒವರ್ ಹೆಡ್ ಬೇರ್ ವಾಹಕಗಳ ಮಾರ್ಗಗಳಲ್ಲಿ (11 KV Over Head Bare conductor) ಅರ್ಥ ಗಾರ್ಡ್ (Earth Guarding) ಅಳವಡಿಸಿದ್ದರೆ ಸದರಿ ಅಪಘಾತನ್ನು ತಪ್ಪಿಸಬಹುದಾಗಿತ್ತು ಎಂದು ತನಿಖಾಧಿಕಾರಿಯವರ ವರದಿಯನ್ನಾಧರಿಸಿ ಅಭಿಪ್ರಾಯಿಸಲಾಗಿದೆ.”

ಈ ಪ್ರಕರಣದಲ್ಲಿ **The Central Electrical Authority (Measures Relating to Safety and Electric Supply) Regulation - 2023 Regulation 14(1), 24(1)(i), 48(7), and 76 (1)** ಉಲ್ಲಂಘನೆಯಾಗಿರುವುದಾಗಿ ತನಿಖಾಧಿಕಾರಿಯವರ ವರದಿಯನ್ನಾಧರಿಸಿ ಅಭಿಪ್ರಾಯಿಸಲಾಗಿದೆ.

ಮುಂದಿನ ದಿನಗಳಲ್ಲಿ ಈ ರೀತಿಯ ಅಪಘಾತಗಳನ್ನು ತಡೆಗಟ್ಟಲು ಕೆಳಗಿನ ಸುರಕ್ಷತಾ ಕ್ರಮಗಳನ್ನು ಅನುಸರಿಸುವುದು.

- 1) ಹಳೆಯದಾದ ಮತ್ತು ಶಿಥಿಲಗೊಂಡಿರುವ ವಿದ್ಯುತ್ ವಾಹಕಗಳನ್ನು ಗುರುತಿಸಿ, ಅವುಗಳನ್ನು ಯು.ಜಿ/ಒವರ್ ಹೆಡ್ ಕೇಬಲ್ ಗೆ ಬದಲಾಯಿಸಿ ಮಾರ್ಗಗಳನ್ನು ಅಪಾಯರಹಿತವಾಗಿ ಸುಸ್ಥಿತಿಯಲ್ಲಿಟ್ಟುಕೊಳ್ಳುವುದು.
- 2) ವಿದ್ಯುತ್ ವ್ಯವಸ್ಥೆಯಲ್ಲಿ ಅಳವಡಿಸುವ ಮೀಟರಿಂಗ್ ಕ್ಯುಬಿಕಲ್, ಎಲ್.ಬಿ.ಎಸ್, ಆರ್.ಎಮ್.ಯು, **Intermediate OD** ಮತ್ತು ಇತರೆ ಉಪಕರಣಗಳನ್ನು ವರ್ಮಿನ್ ಪ್ರೂಪ್ ಹಾಗಿರುವಂತೆ ನೋಡಿಕೊಳ್ಳುವುದು ಹಾಗೂ ಆರ್.ಎಮ್.ಯು ಮತ್ತು **Intermediate OD** ಗಳಲ್ಲಿರುವ **Protection system** ಸುಸ್ಥಿತಿಯಲ್ಲಿರುವಂತೆ ನಿರ್ವಹಿಸುವುದು.
- 3) ಸಾರ್ವಜನಿಕ ಸ್ಥಳಗಳಲ್ಲಿ ಹಾದು ಹೋಗಿರುವ ಒವರ್ ಹೆಡ್ ಬೇರ್ ವಾಹಕಗಳ ಮಾರ್ಗ (Over Head Bare conductor) ಗಳಲ್ಲಿ ವಾಹಕವು ತುಂಡಾಗಿ ಬಿದ್ದಲ್ಲಿ, ವಿದ್ಯುತ್‌ನಿಂದ ಸಂಭವಿಸುವ ಅಪಘಾತಗಳನ್ನು ತಡೆಗಟ್ಟಲು ಅರ್ಥ ಗಾರ್ಡ್ (Earth Guarding) ಅಳವಡಿಸುವುದು.
- 4) **High Impedance Fault** ಉಂಟಾದಾಗ ಸಾಮಾನ್ಯವಾಗಿ **protection** ರಿಲೆಗಳು ಟ್ರಿಪ್ ಆಗದೇ ಇರುವುದರಿಂದ, ಸದರಿ

ಸಮಸ್ಯೆಗೆ ಪರ್ಯಾಯ ಪರಿಹಾರ ಅವಶ್ಯವಾಗಿದ್ದು, ಭಾರತದಲ್ಲಿ ಯಾವುದೇ DISCOMS / Power Utilitiesಗಳಲ್ಲಿ High Impedence Fault protection systems ಗಳ ಉಪಯೋಗ ಪೂರ್ಣ ಪ್ರಮಾಣದಲ್ಲಿ commercial ರೂಪದಲ್ಲಿ ಆಗಿರದೇ, ಇನ್ನು ಪ್ರಾಥಮಿಕ ಹಂತದಲ್ಲಿ ಇರುವುದು ತಿಳಿದುಬಂದಿದ್ದು, ಸದರಿ ವಿಷಯದ ಬಗ್ಗೆ ಈಗಾಗಲೇ ಕೆಲವು ರಾಜ್ಯಗಳಲ್ಲಿ ಅಳವಡಿಸಿರುವ High Impedence Fault protection systems ಅಧ್ಯಯನ ಹಾಗೂ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಹೆಚ್ಚಿನ ತಾಂತ್ರಿಕ ಅಧ್ಯಯನಗಳು ಮತ್ತು ಸಂಶೋಧನೆಯ ಅವಶ್ಯಕತೆ ಇದ್ದು, ಸದರಿ ಕ್ರಮಗಳನ್ನಾದರಿಸಿ ಹಾಗೂ commercial viability ಅಂಶಗಳನ್ನು ಪರಿಗಣಿಸಿ High Impedence Fault protection systems ಅಳವಡಿಕೆಗೆ ಕ್ರಮ ವಹಿಸಬಹುದಾಗಿರುತ್ತದೆ.”

The recommendation of the Electrical Inspectorate is that old wires which are in dilapidated condition should be identified and replaced by UG/overhead cables. Likewise several safety measures are also recommended by the Inspectorate to avoid such instances in future. The 1st petitioner on account of the incident had been transferred and the 2nd petitioner was placed under suspension; both of which became subject matter of writ petitions noted hereinabove. Both the writ petitions were allowed by this Court as stated *supra*.

9. Since the learned senior counsel for the petitioners has placed heavy reliance on the order passed by the coordinate Bench

setting aside the order of suspension, it becomes germane to notice the said order. It reads as follows:

"....

3. *The petitioner was working as the Assistant Executive Engineer and was In-charge of the area in which the incident occurred. It is not in dispute that pursuant to the said incident the Department of Electrical Inspectorate conducted an enquiry and submitted an electrical accident report in relation to that event. In this report it has been stated as follows :*

“ಸದರಿ ಅಪಘಾತಕ್ಕೆ ವಿದ್ಯುತ್ ಮಾರ್ಗವು ತುಂಡಾಗಿ ಪೇಪರ್-ಬ್ಲಾಕ್ (ಪುಟ್-ಪಾತ್) ಮೇಲೆ ಬಿದ್ದು Low Fault current path ಉಂಟಾಗಿ, ನಿಗದಿತ ಪಾಲ್ಟ್ ಕರೆಂಟ್ ಭೂಮಿಗೆ ಹೋಗದೆ ಇರುವುದರಿಂದ ಸಂಬಂಧಿಸಿದ ಇ.ಎಸ್.ಆರ್ ಮೇಲೆ ಟ್ರಿಪ್ ಆಗಲು ಬೇಕಾದ ನಿಗದಿತ ರಿಲೆ ಪಿಕ್-ಅಪ್ ಕರೆಂಟ್ ಪ್ರವಹಿಸದೇ ಇರುವುದರಿಂದ ಸಂಬಂಧಿಸಿದ ಇ.ಎಸ್.ಆರ್ ಟ್ರಿಪ್ ಆಗದೇ ಇರುವುದು ಪ್ರಮುಖ ಕಾರಣವಾಗಿದ್ದು ಸಹ, ಹಳದಾದ ಮತ್ತೆ ಶಿಥಿಲಗೊಂಡಿರುವ ವಿದ್ಯುತ್ ಮಾರ್ಗದ ವಾಹಕಗಳನ್ನು ಗಮನಿಸಿ ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಂಡು ವಿದ್ಯುತ್ ಮಾರ್ಗಗಳನ್ನು ಸುಸ್ಥಿಯಲ್ಲಿಟ್ಟುಕೊಂಡಿದ್ದರೆ ಹಾಗೂ ಸಂಬಂಧಿಸಿದ ಎಲ್.ಬಿ.ಎಸ್ ನ ನಿರ್ವಹಣೆ ಮಾಡಿ ವರ್ಕಿಂಗ್ ಪೂರ್ಣ ಹಾಗಿ ನಿರ್ವಹಿಸಿದ್ದರೆ ಹಾಗೂ ಸದರಿ ಒವರ್ ಹೆಡ್ ಬೇರ್ ವಾಹಕಗಳ ಮಾರ್ಗಗಳಲ್ಲಿ (11 KV Over Head Bare conductor) ಅರ್ಥ ಗಾರ್ಡ್(Earth Guarding) ಅಳವಡಿಸಿದ್ದರೆ ಸದರಿ ಅಪಘಾತವನ್ನು ತಪ್ಪಿಸಬಹುದಾಗಿತ್ತು ಎಂದು ತನಿಖಾಧಿಕಾರಿಯವರ ವರದಿಯನ್ನಾಧರಿಸಿ ಅಭಿಪ್ರಾಯಿಸಲಾಗಿದೆ.

ಈ ಪ್ರಕರಣದಲ್ಲಿ The Central Electrical Authority (Measures Relating to Safety and Electric Supply) Regulation-2023 Regulation 14(1), 24(1)(i), 48(7), and 76(1) ಉಲ್ಲಂಘನೆಯಾಗಿರುವುದಾಗಿ ತನಿಖಾಧಿಕಾರಿಯವರ ವರದಿಯನ್ನಾಧರಿಸಿ ಅಭಿಪ್ರಾಯಿಸಲಾಗಿದೆ.”

4. *A reading of the said report would indicate that no specific allegation of wrongdoing has been attributed to the petitioner. The observation of the report basically indicate that the incident could have been prevented if certain preventive measures had been taken. It is, therefore, clear that the petitioner cannot be attributed directly for that particular incident.*

5. *Learned counsel appearing for the Bangalore Electricity Supply Corporation Limited (for short, 'BESCOM'), however, submits that as the Assistant Executive Engineer, it was the duty of the petitioner to ensure inspection of studying voltage and road condition of various feeders, for improvement,*

for formulating proposals estimates and he was also in-charge of repair and maintenance works, and therefore, he would have to ultimately take responsibility, since the report also indicates that the lines which had snapped were old and were required to be replaced.

6. *In my view, the report of the Electoral Inspector, as extracted above, only indicates that, had the preventive action been taken, the incident could have been averted. This observation is only general in nature and from this no wrong doing can be individually attributed to the petitioner. Since no wrongdoing has been attributed directly to the petitioner, in my view, in the light of the Electoral Inspector report, the impugned order of suspension cannot be sustained and the same is accordingly **quashed**. Writ Petition is, accordingly, **allowed**."*

The observation is that the Electrical Inspectorate of the Department had conducted an enquiry and submitted a report. The report depicts that it was nobody's fault and, therefore, the order of suspension is quashed. No doubt, the report did indicate that it was faulty wire and to avoid such instances in future several remedial measures are indicated.

10. The issue now would be, whether these officers of BESCOM could be held *prima facie* guilty of negligence, as obtaining under Section 304A of the IPC, as it is not that this is the first instance or the instance has all of a sudden happened. This incident cannot be compared to branch of a tree falling on the passer by.

The snap or a broken live wire had been brought to the notice of the Department through BESCO helpline. It is said that the Junior Engineer was to attend to it, as it was his duty to immediately attend to helpline complaints. Merely because other officers from Station Operator in the hierarchy have different roles and responsibility, they being officers of BESCO in the operation and maintenance department, have to undertake periodical checks of wires that are snapped and hanging. It is here the role of all these persons would become applicable.

11. The recommendation is, old wires are not replaced. Several other instances that happened in the procurement of materials by the KPTCL are also held to be responsible. If some sub-standard material is procured, it would undoubtedly result in such things. Therefore, responsibility would flow from the top brass to the lowest rung of officials. In the considered view of the Court, none can escape the responsibility, when it is the act of negligence in setting things right by the officers. If it is an act of God, it is again an altogether different circumstance. But, due to negligence

of these officers of BESCO, it led to the unfortunate incident of precious lives of citizens casually lost.

12. At this stage, it becomes apposite to notice a judgment of the High Court of Chhattisgarh in the case of **MADHURI PATEL v. STATE OF CHHATTISGARH**¹ wherein it is held as follows:

" "

9. The question as to whether the petitioner was gross negligent or not in death of Reshamlal for the purpose of Section 304A of the IPC, is a matter to be considered during the course of trial on the basis of evidence on record. At this stage even before framing of charges on the basis of material available on record, it cannot be held that there is no evidence on record against the petitioner to connect him in the aforesaid offences including offence under Section 304A of the IPC.

10. The Supreme Court in the matter of Syad Akbar (supra) has held that where negligence is an essential ingredient of the offence, the negligence to be established by the prosecution must be culpable or gross and not negligence merely based upon an error of judgment.

11. As such, the question of gross negligence, if any, on the part of the petitioner has to be established by the prosecution during the course of the trial. As such, taking the entire material available on record, it cannot be held that no offence under Section 304A, 287 and 337 of the IPC is made out against the petitioner.

(Emphasis supplied)

¹ 2021 SCC OnLine Chh.913

I am in respectful agreement with the view taken by the High Court of Chhattisgarh. The petitioner before the High Court of Chhattisgarh was a Junior Engineer of Chhattisgarh State Power Distribution Company like BESCO. A deceased therein had received electrical burn injuries when he was connecting electrical line in the transformer. The deceased succumbed to injuries and died. Proceedings against the Junior Engineer were permitted to continue for offences punishable under Section 304A of the IPC. I am in complete agreement with what is held by the Chhattisgarh High Court. There are plethora of judgments rendered by different High Courts on the issue, some confirming continuation of investigation or trial against the officers of Electricity Department and some quashing. The issue, in the subject *lis*, is with regard to the petitioners being responsible or otherwise.

13. Merely because Electrical Inspectorate of the Department has submitted a report holding that nobody can be held responsible, it would not mean that these petitioners will be left off the hook, investigation in the least, should be permitted to continue. Whether there was a complaint registered before the

BESCOM helpline prior to the said incident and whether the officers took note of the said call from the residents of the area and attended immediately thereto, are all a matter of investigation. It is trite law that negligence is to be understood to be an omission to do something, which a reasonable man guided upon the consideration of conduct of human affairs should do, would omit to do those reasonable affairs. Consideration of negligence is different in civil and criminal law. They do not go hand in hand in certain circumstances.

14. In the case at hand, the wife and the child of the complainant die. Therefore, there is death due to negligence. Who is responsible for the negligent act is always a matter of investigation or trial, as the case would be, as existence of the duty to take care is the first and fundamental of the ingredient of a criminal action brought on the basis of negligence. Breach of such duty would lead to consequences flowing from the action that happens due to such breach. At the stage of procurement, till the man on the field who would supervise should be rather diligent that such instances would be obviated. Unfortunately for the negligent

act of officers of the Electricity Department, be it any of the ESCOMS of KPTCL, or KPTCL, innocent lives of citizens, are so casually lost. The life of a citizen which is casually lost cannot be buried, holding no role on the part of the officers of the Electricity Department. They need to be responsible and accountable. Therefore, it is high time that these officers wake up, right from top brass to the man on the field and put their effort to obviate such instances being repeated overall again, as a citizen cannot bear the impact of repetition of such negligence, leading to death of lives.

15. Therefore, in the considered view of this Court, this is not a case where investigation in Crime No.601 of 2023 needs to be quashed on the ground of Electrical Inspectorate of the Department giving a clean chit to all the officers. Matter requires investigation and investigation is a must in such cases.

16. For the aforesaid reasons, I pass the following:

ORDER

- (i) The Writ Petition stands ***rejected***.

- (ii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioners under Section 482 of Cr.P.C. and the same shall not bind or influence the investigation or proceedings that would be initiated against them or any other accused persons.

Sd/-
(M. NAGAPRASANNA)
JUDGE

bkp
CT:SS