

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 6427 OF 2018

ORDER:

This petition is filed under Section 482 of Cr.P.C. by the petitioner-accused No. 2 to quash the proceedings against him in C.C.No. 403 of 2015 on the file of the Court of Judicial I Class Magistrate at Bellampalli registered for the offence punishable under Section 304-A IPC.

2. Respondent No. 2 lodged a report with police on 16-11-2014 against accused No. 1 and the petitioner alleging that on 15-11-2014 at 21.40 hours, he made a phone call to his brother Rajendar and at that time, some other person attended the call and informed that two persons died due to accident near Somagudem Tollgate; that immediately, he along with his family members rushed to the spot and found one lorry bearing No. AP 16 X 2736 parked on road and behind the lorry, he found his brother's bike bearing No. AP 01 S 3704 and also found dead bodies of his brother and his friend in a pool of blood and that the accident occurred during night at about 21.25 hours near Somagudem Tollgate while his brother and his friend were returning on bike after attending their work. On receipt of report, the police registered a case in crime No. 102 of 2014 of Kasipet Police Station, Adilabad District, for the offence punishable under Section 304-A of IPC, issued FIR and conducted investigation. During investigation, the police examined number of witnesses and recorded their statements under Section 161 (3) of Cr.P.C. After completion of investigation, the police filed charge sheet against the petitioner, being the manager of tollgate, arraying him as accused No. 2 and the driver of the lorry as accused No. 1.

3. Though notice was ordered and learned counsel for the petitioner filed proof of service, none appeared for respondent No. 2.

4. The present petition is filed to quash the proceedings on the ground that the petitioner is not responsible for the death of brother of respondent No. 2 and his friend being the manager of Somagudem Tollgate.

5. Learned Public Prosecutor (T.S.) has also not disputed the nature of accident while requesting to pass appropriate orders in the petition.

6. As seen from the allegations made in the report and the material collected during investigation including the allegations made in the charge sheet, the accident occurred due to rash and negligent driving of driver of the lorry *i.e.* accused No. 1 and not on account of carelessness and negligent maintenance of the tollgate. The allegation that the petitioner failed to maintain the tollgate properly is not sufficient to rope him with the offence punishable under Section 304-A of IPC since it is not the direct cause for causing the accident. I, therefore, find that the petitioner is not liable to be prosecuted for the offence punishable under Section 304-A of IPC and that continuation of proceedings against him is nothing but an abuse of process of Court.

7. The criminal petition is allowed quashing the proceedings against the petitioner-accused No. 2 in C.C.No. 403 of 2015 on the file of the Court of Judicial I Class Magistrate at Bellampalli. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 10-09-2018.

JSK

M.SATYANARAYANA MURTHY, J.