

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Decided on: 29th August, 2018

+ **CRL.REV.P. 370/2018**

RAM BACHHAN

..... Petitioner

Represented by: Mr. Umesh Sinha, Mr. Anil K. Singh
and Mr. Ajay Chaudhary, Advocates.

versus

STATE & ANR

..... Respondents

Represented by: Mr. Avi Singh, Additional Standing
Counsel for State and Mr. Ashok K.
Garg, APP with Inspector Vikramjit
Singh and SI Ravi Saini, PS Prasad
Nagar.
Ms. Aruna Mehta, Advocate for
respondent Nos. 2 and 3.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this petition, petitioner challenges the order dated 26th March, 2018 whereby the Juvenile Justice Board discharged the respondent No.2 for offence punishable under Sections 304A/201/34 IPC registered at PS Prasad Nagar.

2. The above noted FIR was registered on the complaint of petitioner who stated that he had four daughters and two sons. His son Vinod aged about 18-19 years was employed in Delhi by his neighbour's son Dilip. Respondent No.2 also came to Delhi with them and both the boys started working with Dilip at Azadpur at his momo stall. His son was doing fine and concentrating on his work. On 3rd July, 2017 and 4th July, 2014 he had conversation with his son and it came to his knowledge that their relative Mahender met his son and assured him of a job on higher salary. When the

complainant asked his son Vinod about the nature of work and salary to be paid, he informed him that he was getting ₹3,000/- per month and Mahender has assured him that he will get ₹9,000/- per month but the nature of job was not informed. Thereafter phone of his son was switched off and when he went to the house of Mahender his parents told that he had not come to their house and also did not give the mobile phone number of Mahender. He felt suspicious and thus he visited the house of respondent No.2 where he met him. He demanded the mobile number of Mahender which the respondent No.2 refused stating that he did not have his mobile number. Later on internet the complainant saw the photo of his child, he made call to PS Prasad Nagar and came to know about the death of his son near Tank Road, PS Prasad Nagar. Thus he doubted Mahender and respondent No.2 for having knowledge and causing the death of his son.

3. Case of the prosecution is that on 5th July, 2017 a PCR call was received informing that a person was lying in an unconscious state behind Sangam Store. On reaching the spot unknown body of a male was found wearing blue colour underwear. No apparent injury was found on the body. The body was preserved and messages were sent in newspapers, internet and circulated. When the body could not be identified on 17th July, 2017 the post-mortem was conducted and the body was cremated as unknown dead body. As per the post-mortem report the cause of death was opined to be electrocution and brain damage due to blunt force. It was also opined that the head injury was possible due to fall. On the basis of subsequent opinion Section 304A IPC was invoked.

4. On 21st July, 2017 the petitioner came to PS Prasad Nagar inquiring about his missing son and thus FIR No.195/2017 under Sections 304/201/34

IPC was registered. During the course of investigation brother-in-law of the deceased Vinod namely Mahender and respondent No.2, his friend were apprehended.

5. Learned Additional Standing Counsel for the State on instructions submits that in the investigation it was revealed that Mahender was residing in factory where the incident took place and as per the disclosure statement of Mahender both Vinod and respondent No.2 had come to meet him and when Vinod went to take a bath he got electrocuted resulting in his death; whereafter he along with respondent No.2 dragged the body outside the factory.

6. Learned Juvenile Justice Board noted that the bathroom in which Vinod was taking bath, was in the factory and it was not the duty of respondent No.2 to maintain the same. Thus he cannot be implicated for a rash and negligent act and charged for offence punishable under Section 304A IPC. There is no error in the impugned order for the reason the respondent No.2 was only a visitor in the factory premises as was the deceased and was not responsible for maintaining the premises. Further the allegations, if any, of removing the dead body from inside the factory to outside are based on the disclosure statement with no consequential recovery, hence not admissible in evidence under Section 27 of the Indian Evidence Act.

7. Thus this Court finds no error in the impugned judgment. Petition is accordingly dismissed.

(MUKTA GUPTA)
JUDGE

AUGUST 29, 2018
‘vn’