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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.22821 OF 2017 AND
CRL.M.P.NO.13313 OF 2017

1.Rudra Bahadur Chhetry
2.Chitra Nahadur Thapa

. . . Petitioners/
Accused 1 & 2

Versus

1. The State Represented by
The Inspector of Police,
Kelambakkam Police Station,
Thiruporur Taluk, Kanchipuram District.
Crime No.812 of 2016

2. C.Durai Babu
3. G.jeevitha

. . . Respondents/
Complainant, Defacto Complainant,
Wife of the Deceased

PRAYER :

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records and quash the First Information Report
in Crime No.812 of 2016, on the file of the first respondent
Police.

For Petitioner : MC.C.Arun Kumar

For Respondents: Mr.S.Vinoth Kumar.
Govt. Advocate (Crl. Side) for R1

Mr.Prakash Goklaney for R2 & R3
(No Appearance)



ORDER

This is an application filed under Section 482 Cr.P.C. to quash the First Information Report filed against the accused for the offence under Section 304 IPC, in Crime No.812 of 2016, on the file of the first respondent Police. 12

2. The allegation in the First Information Report is that the accused are working as Security Guards in Chettinad Hospital & Research Institute. The deceased was supplying newspapers to the said Hospital & Research Institute. On the date of occurrence, he went to the hospital as usual to supply the newspapers in his motor-cycle bearing Registration No.TN-11 Y-1573. At about 6.45 a.m., while he was entering into the Barricade, there were no ropes tied. After supplying the newspapers, while he was returning, the accused have tied the ropes in the entrance, as the barricade is out of function. Without noticing the same, the deceased rode the motor cycle, as a result, his neck got entangled with the ropes, which caused his death. Thereby the Security Guards have been arraigned as accused for an offence under Section 304 IPC.

3. It is the contention of the learned counsel appearing for the petitioner that the de-facto complainant and the management of the hospital have already entered into a Memorandum of Understanding and sufficient compensation has been paid to the wife of the deceased and the de-facto complainant has agreed to withdraw the complaint. It is his further submission that the offence under Section 304 IPC will not be made out and it is purely an accident. Therefore, the contention of the prosecution against the Security Guards, as if they have no intention to cause death, cannot proceed against them under Section 304 IPC. Hence, they prayed for quashment of First Information Report and placed a copy of the Memorandum of Understanding executed between the parties to show that the amount has already been paid as compensation.

4. Heard the learned Counsel appearing for both sides and perused the entire materials available on record.

5. As narrated above, when an accused is prosecuted for an offence under Section 304 IPC, it must be shown by the prosecution that the accused has committed a culpable homicide not amounting to a murder.

6. Section 299 of the IPC deals with culpable homicide. The same reads as follows:

"299. Culpable homicide.—Whoever causes death by doing an act with the intention of



11. Accordingly, this Criminal Original Petition is allowed and the proceedings in the First Information Report in Crime No.812 of 2016, on the file of the first respondent Police is



quashed. Consequently, the connected criminal miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

psa/asr

To

1. The The Inspector of Police,
Kelambakkam Police Station,
Thiruporur Taluk, Kanchipuram District.
2. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.C.Arun Kumar, Advocate, S.R.No.67288

Crl. O.P. No.22821 of 2017

NMI (CO)
PM/29/12/2021