



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr.L.O.P.(MD) No.1187 of 2022

in

Cr.M.P(MD)No.853 of 2022

G.Ramakrishnan

...Petitioner/ Accused No.2

Vs.

1. The State rep. by
The Sub Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
(In Crime No.548 of 2021) ...1st Respondent/ Complainant

2. Subash Chandra Bose ...2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the case registered in First Information Report in Crime.No.548 of 2021 on the file of the 1st respondent and quash the same as illegal so far as concerned to Accused No.2

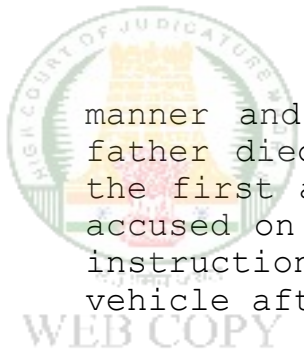
For Petitioner : Mr.G.Anto Prince

For R1 : Mr.B.Thanga Aravindh
Government Advocate

ORDER

The petition has been filed to quash the FIR registered in Crime No.548 of 2021 under Section 174 of Cr.P.C. Subsequently, altered the offence under Section 304(A) r/w Section 109 of IPC.

2.The case of the prosecution is that on 13.12.2021, on the information received by the deceased son, he lodged a complaint alleging that his father was hit by the lorry and as such, he died. On receipt of the said complaint, the first respondent registered the case in Crime No.548 of 2021, under Section 304(A) of IPC r/w Section 174 of Cr.P.C. While investigation in Crime No.548 of 2021 and on verification of the CCTV footage, the first respondent found that the vehicle owned by the petitioner herein involved in an accident and its driver had driven the vehicle in rash and negligent



manner and caused accident, due to which, the second respondent's father died. Though the driver of the vehicle has been arrayed as the first accused, the petitioner herein was also arrayed as second accused on the ground that the first accused confessed that only on instructions given by the second respondent, he did not stop the vehicle after the accident and did not disclose the same to anybody.

3. Admittedly, the petitioner did not drive the vehicle and he is not the reason for the accident. Therefore, the essential ingredients of 304(A) of IPC not be made out as against the petitioner herein. The Section 304(A) of IPC reads as follows:

'Causing death by negligence.-Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.'

4. There is absolutely no ingredient to be made out as against the petitioner to attract the offence under Section 304 (A) of IPC. He has been implicated as an accused only because of he is the owner of the vehicle and on the confession statement of the first accused, he has been implicated as the second accused.

'38. Insofar as Section 304(A) of IPC is concerned, it deals with death caused by doing any rash or negligent act where such death is caused neither intentionally nor with the knowledge that the act of the offender is likely to cause death. The applicability of the Section 304 (A) of IPC is limited to rash and negligent acts which cause death but fall short of culpable homicide amounting to murder and culpable homicide not amounting to murder. An essential element to attract the Section 304(A) of IPC is death caused due to rash or negligent act. The three things which are required to be proved for under Section 304 (A) of IPC are:

- (1) that the death of human being;
- (2) the accused caused the death; and
- (3) the death was caused by rash or negligent act, though it did not amount to culpable homicide of either description.'

5. In the case on hand, the petitioner is not the driver of the vehicle, only the first accused had driven the vehicle in rash and negligent manner and caused accident, due to which, the father of the second respondent died. Therefore, no offence is made out as against the petitioner and the FIR is liable to be quashed only as against the petitioner herein. Accordingly, FIR registered in Crime



No.548 of 2021 is quashed as against the petitioner alone and the criminal original petition is allowed. Consequently, the connected miscellaneous petition is also closed.

6.The first respondent is directed to complete the investigation in Crime No.548 of 2021 as against the first accused and file the final report before the jurisdictional police station, within a period of eight weeks from the date of receipt of a copy of the order.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Sub Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.G.ANTO PRINCE, Advocate (SR-10863[F] dated 09/03/2022)

Cr1.O.P.(MD) No.1187 of 2022
08.03.2022

LR

MS/31.03.2022/3P.4C