

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.569 OF 2021

Muktabai w/o. Eknath Kale	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.M.L.Kolhe, Advocate for applicant
Mr.S.D.Ghayal, APP for respondent no.1
Mr.S.N.Deshmukh, Advocate for respondent no.2

**CORAM : SMT. ANUJA PRABHUDESSAI
AND R.M.JOSHI, JJ.
DATE : JANUARY 02, 2023**

ORDER :-

This is an application under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing Crime No.0383 of 2020 registered with Bhokardan Police Station, Dist.Jalna, for the offence punishable under Section 304-A read with Section 34 of Indian Penal Code as well as the criminal proceedings, i.e. S.C.C. No.79 of 2021, pending before learned Judicial Magistrate, First Class, Bhokardan, Dist. Jalna, as against the applicant herein.

2. Heard learned counsel for the applicant, learned APP for respondent no.1 and learned counsel for respondent no.2.

3. The aforesaid crime was registered pursuant to the FIR lodged by Kaveri Jadhav, mother of deceased Sohil Jadhav. The complainant alleged that on 13.06.2020, her neighbour – Sushila had requested her son Sohil to put tarpaulin over the roof of her house. Sohil came in contact with live electric wire on the roof, which was providing electric connection to the neighbor's house and got electrocuted. The complainant alleged that the death of her son Sohil was caused due to the negligence of her neighbour and lodged the FIR against Kailas Kale, son of the applicant. Subsequently, it was noticed that the electric metre was in the name of the applicant and hence, the applicant came to be arrayed as an accused instead of Kailas Kale.

4. Section 304-A of I.P.C. deals with homicidal death due to rash or negligent act. It is well settled that *"to impose criminal liability under this section, it is necessary that the death should have been the direct consequence of rash and negligent act of the accused and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the cause causans, it is not enough that it may have been the cause sine qua non."* These observation in **Emperor Vs. Omkar Ram**

Pratap, (1902)4 Bom.C.R. 679, have been affirmed by the Supreme Court as the right view and correct legal position.

5. In the instant case, the applicant has been implicated solely on the ground that the electric metre stands in her name. There is no material on record to indicate that she was required to maintain the electric wire or that her negligence had resulted in the death of the son of the complainant. There is absolutely no material to indicate that the applicant acted in negligent manner or that she had failed to exercise proper care and precaution to guard against injury to public or an individual in particular.

6. Hence, no offence under Section 304-A of I.P.C. is made out against the applicant. In these circumstances, continuation of criminal proceedings will be sheer abuse of process of law.

7. In view of the above, the application is allowed in terms of prayer clause (B). The FIR bearing Crime No.0383 of 2020 registered with Bhokardan Police Station, Dist.Jalna, for the offence punishable under Section 304-A read with Section 34 of Indian Penal Code as well as the criminal proceedings, i.e. S.C.C. No.79 of 2021,

pending before learned Judicial Magistrate, First Class, Bhokardan,
Dist. Jalna, is quashed qua the applicant herein

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP