



Crl.O.P.No.8907 & 14304 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. Nos. 8907 & 14304 of 2021

&

Crl. M.P.Nos. 5791, 7812 & 7813 of 2021

Selvaraj ... Petitioner in Crl.OP/8907/2021

S.R.Suresh ... Petitioner in Crl.OP/14304/2021

Vs.

1.State rep. by
The Inspector of Police,
Chettipalayam Police Station,
Chettipalayam – Post,
Coimbatore District.

2.Piragalathan. ... Respondents in both Crl.OP

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the charge sheet in C.C.No.294 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Madukkarai, Coimbatore.



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For Petitioners : Mr. D.Veerasekharan

For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor.

For Respondent 2 : No Appearance.

COMMON ORDER

These petitions are filed to quash the final report filed under Section 304 - A of IPC.

2. The petitioner in Crl.O.P.No.8907 of 2021 is A3. The petitioner in Crl.O.P.No.14304 of 2021 is A2.

3. It is alleged in the final report that the petitioners are working as a Manager (A2) and a Supervisor (A3) in a Company, called Rajmahal Tyre Equipment Private Limited; that one Arunkumar was working in the said company and on 23.06.2015 at about 7.55 a.m., after taking bath, he had attempted to put towel for drying and had



accidentally come in contact with the live electric wire near the compound wall of the company; that due to electrocution the said Arunkumar died. Therefore, the petitioners were prosecuted for the above said offences along with the proprietor of the company (A1).

4. (i) The learned counsel for the petitioners would submit that it is the case of unfortunate accident and there is nothing in the impugned final report to suggest that the petitioners were guilty of negligence much less a gross negligence and the act of the petitioners was a causa causans for the unfortunate accident.

(ii) The learned counsel submitted that the petitioners are the employees of the company and in order to invoke the offence of 304 - A IPC, it has to be established that the petitioners' act was the proximate cause for the death of the deceased.

5. The learned Additional Public Prosecutor however submits that the allegations attracts the offence of Section 304 - A IPC and the



matter has to be adjudicated during the Trial.

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6. Though notice was served on the 2nd respondent, none have entered appearance for the 2nd respondent.

7. This Court on perusal of the impugned final report finds that there is nothing in the impugned final report to suggest that the petitioners were guilty of gross negligence in order to invoke Section 304 - A of IPC. This Court has repeatedly held that in order to invoke Section 304 - A of IPC, the act of the accused must be the causa causans (i.e.,) immediate cause for the occurrence and the accused must be guilty of gross negligence. However, the final report does not state as to how the petitioners were responsible for the unfortunate accident.

8. This Court had in a similar circumstances in the Judgement reported in **2022 (2) lw crl 210 – Arulanandham Vs. State Rep. by Inspector of Police**, Kodumudi Police Station, Erode District, had held as follows:



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“14. Thus, from the above discussion, it would be clear that "negligence" or "rashness" per se are not culpable unless it is grave or gross in nature. That apart, the facts of the instant case would show that the act of the accused was not the "causa causans" for the death of the deceased. Even according to the prosecution, the deceased fell off the bike and thereafter runover by the lorry. The act of the accused, therefore, was not the immediate cause for the death of the deceased. The Hon'ble Supreme Court in Sushil Ansal stated supra was pleased to observe as follows:

"82. To sum up : for an offence under Section 304-A to be proved it is not only necessary to establish that the accused was either rash or grossly negligent but also that such rashness or gross negligence was the causa causans that resulted in the death of the victim.

83. As to what is meant by causa causans we may gainfully refer to Black's Law Dictionary (5th Edn.) which



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defines that expression as under: “Causa causans.—The immediate cause; the last link in the chain of causation.”

The Advance Law Lexicon edited by Justice Chandrachud, former Chief Justice of India defines causa causans as follows:

“Causa causans.—The immediate cause as opposed to a remote cause; the ‘last link in the chain of causation’; the real effective cause of damage.”

84. The expression “proximate cause” is defined in the 5th Edn. of Black's Law Dictionary as under:

“Proximate cause.—That which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces injury and without which the result would not have occurred.

Wisniewski v. Great Atlantic & Pacific Tea Co.
[226 Pa Super 574 : 323 A2d 744 (1974)], A2d at p. 748.
That which is nearest in the order of responsible causation. That which stands next in causation to the



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effect, not necessarily in time or space but in causal relation. The proximate cause of an injury is the primary or moving cause, or that which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury and without which the accident could not have happened, if the injury be one which might be reasonably anticipated or foreseen as a natural consequence of the wrongful act. An injury or damage is proximately caused by an act, or a failure to act, whenever it appears from the evidence in the case, that the act or omission played a substantial part in bringing about or actually causing the injury or damage; and that the injury or damage was either a direct result or a reasonably probable consequence of the act or omission.”

9. The observations made by the Hon'ble Supreme Court in ***Sushil Ansal's*** case reported in ***(2014) 6 SCC 173*** extracted in the



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above passage squarely applies to the facts of the instant case. In the absence of any material to show that the act of the petitioners was the immediate cause for the accident, the petitioners cannot be prosecuted for the offences under Section 304 – A IPC.

10. In the result, the petitions are allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Internet : Yes/No
Neutral Citation :Yes/No

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SUNDER MOHAN. J,

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