



WEB COPY



Crl.A.No.489 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.12.2025

PRONOUNCED ON : 19.12.2025

CORAM :

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.A.No.489 of 2023

Mariyadass

... Appellant/Sole Accused

v.

The State of Tamil Nadu,
Rep. by Inspector of Police,
SIPCOT Police Station,
Krishnagiri.
[Cr.No.407 of 2019]

... Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, against the conviction of the appellant/sole accused and sentence imposed on him in S.C.35 of 2021 dated 11.04.2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri and set aside the conviction and sentence and allow this appeal.

For Appellant : Mr.AR. Karthik Lakshmanan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



Crl.A.No.489 of 2023

JUDGMENT

WEB COPY

This Criminal Appeal has been filed by the sole accused, challenging the conviction and sentence imposed upon him for the offence under Section 304 (II) of the IPC, vide judgment dated 11.04.2023 in S.C.No.35 of 2021, on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri.

2(i) The gist of the prosecution case is that on 28.09.2019, the victim had gone to fetch water from a panchayat tap nearby at about 12.00 noon; that when she came near the house of the appellant and when she touched the compound wall of PW24 [Poornima], she was electrocuted; that when her husband [PW14] saw the victim, she was standing without any movement; that when the husband touched her, he suffered an electric shock; that he realised that the victim had suffered an electric shock and thereafter, managed to remove the victim's hand from the fence with a wooden log; that when the victim was admitted in the hospital, they declared the victim to be dead; that the appellant had tied a wire that supplied electricity to PW24's house in the iron fencing above the compound wall, knowing fully well that it is likely to cause death, if anybody comes in contact with the compound wall if there is any damage to the electrical wire.



Crl.A.No.489 of 2023

(ii) On the complaint [Ex.P1] given by PW1, the mother of the victim, a case was registered under Section 174 Cr.P.C., stating that her daughter died due to electric shock. During the course of investigation, the respondents collected evidence to show that one year prior to the occurrence, the appellant had tied an electrical wire which supplied electricity to his neighbour [PW24], in the iron fencing above the compound wall, since the electrical wire was touching the wall of his house; that the appellant as a wireman was aware of the consequences namely that if the electrical wire is damaged, it could cause the death of any person who came in contact with the compound wall; and therefore, a final report was filed against the appellant for the offence under Section 304(II) of the IPC, before the learned Judicial Magistrate No.2, Hosur.

(iii) On the appearance of the accused, the provisions of Section 207 Cr.P.C., were complied with, was committed to the Court of Sessions i.e., Principal Sessions Court, Krishnagiri and was made over to the learned Sessions Judge, Fast Track Mahila Court Krishnagiri, for trial, which was taken on file as S.C.No.35 of 2021. The trial Court framed charges against the accused for the offences under Section 304 (II) of the IPC and when questioned, the accused pleaded 'not guilty'.



Crl.A.No.489 of 2023

(iv) To prove its case, the prosecution had examined 25 witnesses as P.W.1 to P.W.25 and marked 15 exhibits as Exs.P1 to Ex.P15, besides 1 material object, viz., M.O.1. When the accused was questioned, u/s.313 Cr.P.C., on the incriminating circumstances appearing against him, he denied the same. The accused neither examined any witness nor marked any document on his side.

(v) The trial Court found that the appellant had tied the electrical wire over the iron fencing on the compound wall that had caused the death of the victim and therefore found the appellant guilty of the offence under Section 304 (II) of the IPC. The trial Court, therefore, convicted him for the said offence and sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for one year. Hence, the accused has preferred the instant appeal challenging the said conviction and sentence.

3. The learned counsel for the appellant/accused would submit that the alleged act of the appellant in tying the electrical wire as claimed by the prosecution was committed one year prior to the occurrence; that except for the



Crl.A.No.489 of 2023

evidence of PW14, no other witnesses had stated that the appellant had tied the wire in the iron fencing; that the evidence of PW14 does not inspire confidence; that his evidence is contrary to the evidence of PW24; that in any case even if the allegations are accepted to be true, the offence under Section 304(II) of the IPC would not be made out, as the act cannot be said to have been done with the intention or knowledge that it is likely to cause the death of any person; and therefore, prayed for setting aside the judgment of the trial Court.

4. The learned Additional Public Prosecutor, *per contra* submitted that the prosecution had established the fact that the victim died due to an electric shock; that she sustained the said electric shock because an electrical wire which was damaged was tied to the iron fencing; that the report of the electricity department would clearly show that the person who had tied the wire in such a manner would be liable; that the evidence of PW14, husband of the victim and the other witnesses, who corroborate the evidence of PW14, would clearly show that the appellant as a wireman in the Electricity department, who knew the consequences of such an act, had tied the wire in the iron fencing; and therefore, the impugned judgment does not call for any interference and sought for dismissal of the appeal.



WEB COPY

5. (i) As stated above, the prosecution had examined 25 witnesses. PW1, is the mother of the deceased; PW2 and PW3 are the sisters of the deceased; PW4 is the brother of the deceased; All four witnesses speak about receiving the information from the husband of the victim [PW14] that the victim died due to an electric shock; PW5 is the relative of PW1 and had assisted PW1 in lodging the complaint, which was registered as an FIR [Ex.P11]; PW6 and PW7 have signed as witnesses in the observation mahazar [Ex.P2]; PW8 is the father-in-law of the victim and he would corroborate the evidence of PW14 and is a hearsay witness; and PW9 is the grandmother of the victim and she would depose that the victim died due to electric shock. She however admitted in the cross-examination that she was not aware as to who tied the wire in the compound wall. PW10, PW11 and PW12 are hearsay witnesses who came to know that the victim died due to electric shock.

(ii) PW13 was working as the Assistant Executive Engineer in the Tamil Nadu Electricity Board [TNEB]. He had deposed that no wire supplying electricity to any house should be tied to any iron fencing, as any damage to the wire would cause leakage of electricity and thereby cause electric shock to any



Crl.A.No.489 of 2023

person who comes in contact with the fencing; and PW14 is the husband of the victim, who first saw the victim touching the compound wall and when he tried to pull the victim he also sustained electric shock and thereafter he managed to pull the victim out and took her to the hospital. PW15 is the Doctor, who conducted postmortem and issued postmortem certificate [Ex.P9] and she would state that there were two lacerated injuries in the left leg and index finger of the victim; PW16 and PW17, are the constables, who had assisted in the investigation; PW18 is the Village Administrative Officer, who had signed as a witness in the confession statement and in the seizure mahazar [Ex.P8], for seizure of electrical wire from the house of the appellant on his confession; PW19 is a Village Assistant who assisted the Village Administrative Officer and also signed the confession and the seizure mahazar; PW20 is the Revenue Divisional Officer [Ex.P9] and in his report [Ex.P10] had stated that the victim had died due to electric shock; PW21 is the Special Sub-Inspector of Police, who registered the FIR and had marked Ex.P11; PW22 is the first investigating officer, who conducted the initial investigation; and PW23 is the Superintendent of Police, who had conducted a portion of the investigation and found that the death was not due to any dowry harassment by PW14.



Crl.A.No.489 of 2023

(iii) PW24 is one Poornima, who shares the compound wall with the appellant. It is the prosecution case that the electrical wire which supplied electricity to PW14 was tied by the appellant to the compound wall in PW24's house. However, PW24 would deny the said fact and would state that the wire is directly connected to her house and nobody tied the electrical wire to the compound wall. PW25 is the investigating officer who filed a final report under Section 304(II) of the IPC.

6. The prosecution had established beyond reasonable doubt that the victim died due to electric shock. The witnesses, viz., PW1 to PW5 are closely related to the victim and all of them are hearsay witnesses. The postmortem doctor [PW15] had opined that the victim died due to electric shock. All the witnesses examined by the prosecution confirmed that they came to know that the victim died due to electric shock. The question is whether the victim sustained the electric shock due to the act of the appellant and if so, what is the offence committed by the appellant.

7. It is the consistent case of the prosecution that the appellant, being a Wireman in TNEB, had tied the wire supplying electricity to PW24 in the iron



fence above the compound wall between his house and PW24's house, since the wire originally was touching the wall of his house.

8. The prosecution relies upon the evidence of PW14 the husband of the victim, PW9, the grandmother of the victim and PW24, the said Poornima, as stated above. The prosecution also had examined the officer [PW13] from TNEB. He had also given a report marked as Ex.P3. Ex.P3 only states that a single phase connection was given to PW24 and that if a wire had been tied to the fence after the Electricity Board department had given the electricity connection, the person who tied the wire would be responsible for any mishap. The report does not suggest that the appellant had tied the wire in any particular manner and had caused the death.

9. Be that as it may. PW9, the grandmother of the victim would depose that a wire was tied on the iron fencing above the compound wall and that wire was meant to supply electricity to PW24. However in her cross-examination, she would admit that the iron fencing and the compound wall belonged to PW24 and that she was not aware as to who actually tied the wire in the iron fencing. Therefore, her evidence is of no avail to the prosecution.



WEB COPY

10. PW14 is the husband of the victim, who deposed that he knew that it was the appellant who tied the wire in the iron fencing above the compound wall; that he had warned the appellant not to do it since it is likely to cause electric shock if there is any leakage in the wire; that the appellant had not heeded to his advice and since the appellant was employed in the Electricity Board as Wireman, he was aware of the consequences and hence, he is liable for the death of his wife.

11. In the cross-examination, PW14 would admit that he had not complained to TNEB, when the appellant is said to have tied the wire one year before the occurrence. He would also admit that there is a gap of 50 feet between the house of PW24 and the appellant; that the wire was tied on iron fencing above the compound wall of PW24; and that the iron fencing was on the side of PW24's house. He had further admitted in his cross-examination that he had not warned PW24 about the likely danger.

12. The version of PW14 is contradicted by PW24, who deposed that she had not seen any electrical wire tied to the compound wall. She would also



state in her cross-examination that the electrical connection was directly taken to her house from the electrical post and nobody had tied any wire in the fencing. In fact, she had stated that she was unaware of the death of the victim.

13. Strangely, PW24 who was an important witness, was initially not examined during the investigation and this is admitted by the investigating officer [PW25] in his cross-examination. It is needless to say that to establish the offence, the best witness would have been PW24. However, as stated above, PW24 was not examined during the investigation, but was examined before the Court and her version is totally contrary to the version of PW14. Thus, it is seen that apart from the evidence of PW14, the prosecution had not examined any other witness to establish that it was the appellant who had tied the electrical wire. As stated above, PW24 herself contradicted PW14 and therefore the version of PW14 is highly doubtful.

14. Be that as it may. The alleged tying, even according to PW14, happened one year prior to the occurrence. As stated earlier, PW14 has not taken any steps to warn PW24 or give a complaint to the TNEB. Even assuming that the appellant had tied the wire, in order to attract the offence



Crl.A.No.489 of 2023

under Section 304(II) of the IPC, the prosecution is bound to show that the act of the appellant was the *causa causans* and not just a *causa sine qua non*. In ***Sushil Ansal v. State through Central Bureau of Investigation***, reported in **(2014) 6 SCC 173**, the Hon'ble Supreme Court had held as follows:

(V) Doctrine of Causa Causans:

80. We may now advert to the second and an equally, if not, more important dimension of the offence punishable under [Section 304-A IPC](#), viz. that the act of the accused must be the proximate, immediate or efficient cause of the death of the victim without the intervention of any other person's negligence. This aspect of the legal requirement is also settled by a long line of decisions of Courts in this country. We may at the outset refer to a Division Bench decision of the High Court of Bombay in [Emperor v. Omkar Rampratap](#) (1902) 4 Bom LR 679 where Sir Lawrence Jenkins speaking for the Court summed up the legal position in the following words:

“...to impose criminal liability under [Section 304-A](#), Indian Penal Code, it is necessary that the act should have been the direct result of a rash and negligent act of the accused and that act must be proximate and efficient cause without the intervention of another negligence. It must have been the *causa causans*; it is not enough that it may have been the *causa sine qua non*.”

The above statement of law was accepted by this Court in [Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra](#) AIR 1965 SC 1616. We shall refer to the facts of this case a little later especially because Mr.



Jethmalani, learned Counsel for the appellant-Sushil Ansal, placed heavy reliance upon the view this Court has taken in the fact situation of that case.

81. Suffice it to say that this Court has in Kurban Hussein's case (supra) accepted in unequivocal terms the correctness of the proposition that criminal liability under [Section 304-A](#) of the IPC shall arise only if the prosecution proves that the death of the victim was the result of a rash or negligent act of the accused and that such act was the proximate and efficient cause without the intervention of another person's negligence. A subsequent decision of this Court in [Suleman Rahiman Mulani v. State of Maharashtra](#) AIR 1968 SC 829 has once again approved the view taken in Omkar Rampratap's case (supra) that the act of the accused must be proved to be the causa causans and not simply a causa sine qua non for the death of the victim in a case under [Section 304-A](#) of the IPC. To the same effect are the decisions of this Court in [Rustom Sherior Irani v. State of Maharashtra](#) 1969 ACJ 70; [Balchandra @ Bapu and Anr. v. State of Maharashtra](#) AIR 1968 SC 1319; [Kishan Chand v. State of Haryana](#) (1970) 3 SCC 904; [S.N Hussain v. State of A.P.](#) (1972) 3 SCC 18; [Ambalal D. Bhatt v. State of Gujarat](#) (1972) 3 SCC 525 and Jacob Mathew's case (supra).

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."

15. The above said principle can be extended to the facts of the instant case where the appellant was charged under Section 304(II) of the IPC. Thus even assuming that the appellant had tied the wire, the said act was committed one year prior to the occurrence. Such an act cannot be held to be the



Crl.A.No.489 of 2023

proximate or the immediate cause for the occurrence, even if PW14 is believed.

In any case, this Court is of the view that PW14's version is highly doubtful as observed earlier.

16. Therefore, for all the above reasons, this Court is of the view that the impugned prosecution as against the appellant and the impugned judgment holding the appellant guilty of the offence under Section 304(II) of the IPC cannot be sustained.

17. In the result, the Criminal Appeal is allowed. The conviction and sentence imposed upon the appellant/accused for the offence under Section 304 (II) of the IPC, vide judgment dated 11.04.2023 in S.C.No.35 of 2021, on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, are set aside. The appellant/accused is acquitted of the charge. The fine amount, if any, paid by the appellant shall be refunded. Bail bond, if any, executed shall stand discharged.

Index : yes/no

19.12.2025

Speaking /Non-speaking order

Neutral citation : yes/no

ars



WEB COPY



Crl.A.No.489 of 2023

SUNDER MOHAN, J.

ars

To

1. The Sessions Judge,
Fast Track Mahila Court,
Krishnagiri.
2. The Inspector of Police,
SIPCOT Police Station,
Krishnagiri.
3. The Superintendent of Prisons,
Central Prison, Krishnagiri.
4. The Public Prosecutor,
High Court, Madras.

Pre-delivery Judgment in
Crl.A.No.489 of 2023

19.12.2025