



Crl.O.P.No. 12502 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.12502 of 2023 and
Crl.M.P.No.7639 of 2023

Mahesh Kumar

... Petitioner

Vs.

1.State rep. By
The Inspector of Police,
Madhuravayol Police Station,
Anna Nagar Police District,
Chennai 600 095.
Crime No.289 of 2022.

2.Chidambaram

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to FIR in Crime No.289 of 2022 dated 26.05.2022 on the file of the first respondent quash the same.

For Petitioner : MrS.Doraiswamy

For R1 : Mr.R.Vinothraja,

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Government Advocate (crl.side)

For R2

: No appearance

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.289 of 2022 on the file of the first respondent, registered for the offence punishable under Section 304A of IPC.

2. The case of the prosecution, as per the FIR, is that the son of the second respondent, namely Jayaseelan, was employed as a painter under the first accused (A1) to carry out painting work at the premises owned by the petitioner (A2). On 26.05.2022, while undertaking the said painting work, the said Jayaseelan fell from a window and sustained grievous injuries, which subsequently resulted in his death. Based on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.289 of 2022 for the offence under Section 304A of IPC.



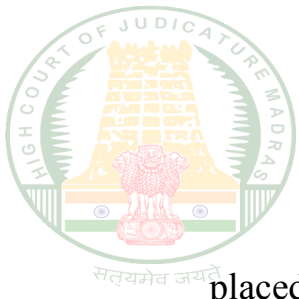
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3. The learned counsel for the petitioner submitted that, though the petitioner is the owner of the premises, the painting work was undertaken by A1, who had entered into an agreement dated 19.05.2022 with the petitioner. It is contended that A1, being a contractor, engaged the deceased for the painting work, and unfortunately, during the course of the said work, the deceased fell from the window and succumbed to injuries. The petitioner, being only the owner of the premises and not directly involved in the execution of the work, cannot be held liable for any alleged negligent act committed by A1.

4. The learned Government Advocate (Criminal Side) submitted that there are totally two accused in this case, and the petitioner has been arrayed as A2. Admittedly, the petitioner is the owner of the building where the incident occurred. He would contend that the petitioner had engaged the painter for the painting work, and hence, he is liable for the demise of the painter under Section 304A IPC.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Criminal Side) and perused the materials



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placed on record. Though notice was served on the second respondent, no one appeared either in person or through pleader.

6. Before proceeding further, it is relevant to extract Section 304A of IPC, which reads as follows:

“304A. 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 seven years or with fine which shall not be less than seventy-five thousand rupees or with both:

Provided that if any person by doing any rash or negligent driving causes injury to another person and rushes that person so injured to a nearby hospital or assists the person in getting immediate medical attention but, the person so injured subsequently dies, the punishment shall be reduced and decided on case to case basis.”

A plain reading of the above provision makes it evident that in order to attract Section 304A IPC, it is essential to establish that the accused acted in a rash or negligent manner leading to the death of another person. Admittedly, in the present case, the petitioner had entered into an agreement with A1 for painting the premises. A1, in turn, engaged the



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deceased to carry out the said painting work. It is during the course of this work that the deceased fell from a window and later succumbed to the injuries. It is pertinent to note that the petitioner, being the owner of the premises, had entrusted the entire work to A1, who was acting as an independent contractor. There is no *prima facie* material to show that the petitioner was directly responsible for the negligent act that allegedly caused the death of the deceased. That apart, it is also brought to the notice of this Court that the petitioner had paid a sum of Rs.3,00,000/- (Rupees Three Lakhs only) as compensation to the family of the deceased.

7. In view of the above facts and circumstances, this Court is of the considered opinion that the continuation of proceedings against the petitioner (A2) is not sustainable in law and amounts to abuse of process. Accordingly, the FIR in Crime No.289 of 2022 on the file of the first respondent is hereby quashed as against the petitioner (A2) alone. However, the first respondent is directed to proceed with the investigation and file a final report as against the first accused (A1) within a period of eight weeks from the date of receipt of a copy of this order.



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8. In the result, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petition is closed.

21.04.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk

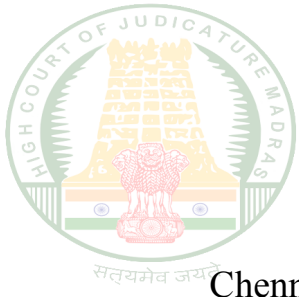
G.K.ILANTHIRAIYAN, J.

shk

To

1.The Inspector of Police,
Madhuravayol Police Station,
Anna Nagar Police District,

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2. The Public Prosecutor,
High Court, Madras.

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