



Crl.O.P.(MD)No.5180 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.5180 of 2025

and

Crl.M.P.(MD).Nos.3731 and 3732 of 2025

Dr.Sudharsan

... Petitioner/Accused No.1

Vs.

1.The State of Tamil Nadu,
rep. by the Inspector of Police,
TIW II Police Station,
Madurai City.
(Crime No.207/2023)

... 1st Respondent/Complainant

2.Senthilkumar

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the charge sheet in C.C.No.179 of 2024 pending on the file of the Judicial Magistrate Court No.II, Madurai and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.R.Gandhi
Senior Counsel
for M/s.Gandhi Associates

For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For R-2 : No appearance



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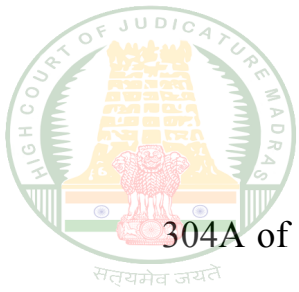
ORDER

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This Criminal Original Petition has been filed to quash the final report in C.C.No.179 of 2024 as against the first accused for the offences under Section 279 and 304A of IPC.

2. The allegation in the final report is that the petitioner was seated in the driver seat of his car bearing Registration No.TN 59 CM 5305; that without ascertaining the traffic behind him, he had opened the right side door of the car; that the deceased, who was riding his two wheeler therefore had dashed against the door of the car and fell down; that A2, who came behind in the same direction in a car bearing Registration No.TN 59 CB 1923, drove the car in a rash and negligent manner and caused the death of the deceased by running over the deceased and fled from the scene of occurrence.

3. Mr.Gandhi, learned Senior Counsel for the petitioner would submit that even according to the prosecution, the petitioner's act was not the *causa causans* for the accident or the death of the deceased; that in any case, his act even though would amount to negligence, would not amount to gross negligence to warrant a prosecution for the offences under Section 279 and



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304A of IPC. In support of his submission, the learned Senior Counsel relied upon the judgments of this Court in the case of ***S.Varadhan Vs. State*** in ***Crl.O.P.No.22896 of 2008 dated 27.01.2012*** and in the case of ***Sumathi Vs. State, rep. by Inspector of Police, Chekkanoorani Police Station, Madurai District*** reported in ***2023 (2) MWN (Cr.) 279***.

4. The learned Additional Public Prosecutor per contra submitted that the act of the petitioner in opening the car door without due care and caution would amount to negligence; that the petitioner's act was the initial cause for the accident. He would further submit that the question as to whether the petitioner was guilty of negligence or gross negligence has to be adjudicated only in the trial and not in a quash petition and sought for dismissal of the quash petition.

5. Though notice has been served on the second respondent and his name is printed in the cause list, none has entered appearance

6. The allegation as stated above would indicate that due to the act of the petitioner in opening the door, the deceased fell down by dashing against the door of the petitioner's car. Admittedly, the petitioner's act had not caused the death of the deceased as the deceased was run by the vehicle driven by the second accused. It can be said that but for the petitioner's act, the death of the



deceased could not have occurred and he was also guilty of negligence. But, in order to prosecute the petitioner for the offence under Section 304A IPC, it has to be established that the petitioner's act was the *causa causans*, i.e., immediate cause and not merely *causa sine qua non* for the death of the deceased. In this case, the prosecution's case at best suggests that the petitioner's act was the *causa sine qua non*. Such an allegation cannot be the basis to maintain a prosecution under Section 304A IPC. That apart, the act of the petitioner, even accepting the prosecution case to be true, would only amount to negligence and not gross negligence so as to warrant a prosecution under Section 304A IPC.

7. This Court, in the case of ***Sumathi Vs. State, rep. by Inspector of Police, Chekkanoorani Police Station, Madurai District*** (cited supra), had held as follows:

"12. The prosecution has not stated anywhere as to how this violation of these conditions were the immediate cause for the accident. There is nothing in the entire records to show that the accident occurred only to due to the violations alleged by the prosecution. The violations of the conditions/licence in the instant case, does not ipso facto lead to the conclusion that they were the proximate cause for the occurrence. The prosecution does not allege one single cause for the accident. Several factors a combination of which, according to the prosecution, has caused



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the occurrence. In the criminal law, the act of the accused must be the causa causans, the proximate cause for the occurrence. It is not the case of the prosecution that these violations happened only on the fateful day. According to the prosecution, the violations were there even prior to the accident. Therefore, these violations cannot be said to be the immediate cause for the accident. It is alleged by the prosecution that the training supervisor was not employed to supervise and impart training to the employees as to handle fire crackers. The Foreman, who was directly in-charge of these acts, is unfortunately no more. In the absence of any material in the final report to suggest that the act of the petitioner was the immediate cause/causa causans for the occurrence, the charge under Section 304-A, would not lie.

13. Further, the prosecution has to not only establish causa causans, but also gross negligence to prove the charge under Section 304-A IPC. The allegations of violations which have been spelt out by the prosecution are not of such a nature as to call it gross negligence. However, the petitioner may be liable for tort of negligence and not for the crime of negligence. Admittedly, the petitioner has paid compensation to the victims for the said tort. Therefore, this Court is of the view that the offence under Section 304-A IPC and other offences based on negligence namely, Sections 338, 337 and 286 IPC are not made out in the facts of the instant case."

(emphasis supplied)



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8. This Court in the case of **S.Varadhan Vs. State** (cited supra) had held as follows:

“9. In Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra, AIR 1965 SC 1616, the appellant/accused was prosecuted for the commission of the offence under Section 304A and 285 IPC on the ground that while doing the process of pouring turpentine, the froth overflowed out of the barrel and because of heat, varnish and turpentine, which was stored at a short distance caught fire and, consequently, 7 workers were burnt to death. Before the Hon'ble Supreme Court, it was contended by the appellant/accused that since he was not present when the fire broke out resulting in the death of 7 workmen by burning, he cannot be attributed with any rash and negligent act. The Hon'ble Supreme Court, on consideration of the materials available on record, found that the direct or proximate cause of fire, which had resulted in seven deaths, was that of one Hatim Tasduq, who was looking after the operation. The Hon'ble Supreme Court also taken into consideration the decision of the Bombay High Court in Emperor v. Omkar Rampratap (4 Bom LR 679), wherein Section 304A IPC was Interpreted and observed as follows:

To impose criminal liability under Section 304A, Indian Penal Code, it is necessary that the death should have been the



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direct re-suit of a 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 causa causans; it is not enough that it may have been the cause sine qua non.

The Hon'ble Supreme Court found that in order to bring home the guilt on the person for the commission of the offence under Section 304A, the rash or negligent act should be the direct or proximate cause of death and on the facts of the case, found that it was the act of Hatim Tasduq, which resulted in the consequential death of the 7 workmen and, therefore, allowed the appeal and acquitted the appellant/accused therein.”

(emphasis supplied)

The above observations would squarely apply to the facts of the instant case. In this case, the prosecution has neither established *causa causans* nor gross negligence to prosecute the petitioner. Hence, the impugned final report as against the petitioner is liable to be quashed.

9. Accordingly, the impugned final report in C.C.No.179 of 2024 on the file of the learned Judicial Magistrate No.II, Madurai is quashed as against the petitioner/A1 and the Criminal Original Petition is allowed. However, it is made clear that the above observations are made only insofar as the petitioner



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herein is concerned. The learned Magistrate may decide the case against the second accused on its own merits without being influenced by any of the observations made in this order. Consequently, connected miscellaneous petitions are closed.

10.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Judicial Magistrate Court No.II,
Madurai.
- 2.The Inspector of Police,
TIW II Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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