HC-KAR

NC: 2026:KHC:61345
CRL.P No. 1938 of 2024

CNR: KAHC010116622024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 1938 OF 2024

BETWEEN:

MRS YASMEEN TAJ
AGED ABOUT 40 YEARS,
WORKING AS
SUB-INSPECTOR OF POLICE,
R/O NO 988, 1ST STAGE,
RAJEEV NAGARA, NEAR
MADEGOWDA CIRCLE,
MYSORE-570 019

...PETITIONER

(BY SRI. SUNIL KUMAR H, ADVOCATE)

AND:

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

1. STATE OF KARNATAKA BY
NANJANAGUD RURAL POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DR. B.R AMBEDKAR ROAD,
BANGALORE 560 001

2. MR MAHADEV SWAMY G
S/O LATE GURUSWAMY,
AGED ABOUT 35 YEARS,
R/O HIMMAVU VILLAGE,
NANJANGUD TALUK,
MYSORE DISTRICT

MYSORE-571 301

…RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,
SRI. THUSHANATH C.V, ADVOCATE FOR R2)

THIS CRL.P. IS FILED U/S.482 OF CR.P.C PRAYING TO MAY BE PLEASED TO QUASH THE ENTIRE CHARGE SHEET FILED AGAINST THE PETITIONER IN C.C.NO.7/2024 DATED 12.01.2024 FOR THE OFFENCE P/U/S 180(5),181(3) OF INDIAN MOTOR VEHICLES ACT AND SEC.304 ii OF IPC AGAINST THE PETITIONER PENDING ON THE FILE OF CJ AND J.M.F.C COURT NANJANGUD MYSORE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings against the petitioner/accused No.2 in C.C.No.7/2024, arising out of Crime No.203/2023, registered by Nanjangudu Rural Police, for the offences punishable under Sections 304(2) and 308 of IPC and Section 51, 181(3) and 180(5) read with Section 177 of Motor Vehicles Act, presently pending on the file of Senior Civil Judge and JMFC, Nanjangud.

2. The brief facts of the case are, respondent No.2 lodged a complaint before respondent No.1-Police on 16.09.2023 alleging that his father by name Guruswamy

everyday goes to rear cows near Asian Paints Factory at Himmavu Village. On 16.09.2023 at about 04:00 p.m., while Guruswamy was sitting near Asian Paints Factory, accused No.1-Sayad Aiman came in a rash and negligent manner in a motorcycle by doing wheeling and thereby dashed Guruswamy. Though he was shifted to the Hospital, the Doctor declared him as brought dead. Thereafter, respondent No.2 lodged the complaint against the petitioner. On the strength of the said complaint, FIR came to be registered in Crime No.203/2023 dated 16.09.2023 against accused No.1.

3. During the course of investigation, it was revealed to respondent No.1-Police that the petitioner being the mother of accused No.1 and being aware of the fact that accused No.1 was not possessing valid driving license and was possessing only learner's license, handed over the motorcycle which stands in her name. As such, she also contributed her negligence for the alleged incident. Accordingly, respondent No.1-Police invoked Sections 304(2) and 308 of IPC and Section 51, 181(3) and 180(5) read with Section 177 of Motor Vehicles Act. Accordingly, the learned Magistrate took cognizance of the

offences against the petitioner and accused No.1. Aggrieved by the same, the petitioner/accused No.2 preferred this petition.

4. Heard the learned counsel for the respective parties.

5. The primary contention of learned counsel for the petitioner is that, in the charge sheet averments, it is very clear that the petitioner, being the mother of accused No.1 and Traffic Police Sub- Inspector by avocation, had no knowledge about the alleged act committed by accused No.1 i.e., her son. According to him, on the date of incident, after dropping the petitioner for her duty, accused No.1 took the motorcycle and thereby allegedly caused the incident. In such circumstance, the petitioner cannot be vicariously held liable for the act committed by accused No.1. He additionally contended that accused No.1 was a major at the time of incident and admittedly, he was possessing learner's license. Accordingly, he prays to allow the petition.

6. *Per contra*, the prayer is opposed by learned counsel for respondent No.2 and the learned HCGP on the

ground that, now the charge sheet has been filed and the allegation against the petitioner is that she having knowledge of the fact that accused No.1 was not holding valid driving license, permitted and facilitated him to ride the motorcycle belonging to her and also for wheeling the vehicle without number plate. The said act resulted in the accident and caused the death. In such circumstances, the petitioner also committed the offences, for which she had been charge sheeted. They also submitted that accused No.1 is a habitual offender and in order to substantiate the same, they placed two FIRs' in Crime Nos.126/2019 and 98/2023. Accordingly, they pray to dismiss the petition.

7. Learned HGGP, on instructions, submits that as on the date of accident, accused No.1 was major and he was possessing learner's license.

8. I have given my anxious consideration to the aforesaid submissions and perused the entire charge sheet averments so also the other documents made available on record.

9. Admittedly, the petitioner was neither present at the spot nor accompanied accused No.1 at the time of incident. No doubt, the motorcycle which was rode by accused No.1 belongs to this petitioner, who is none other than the mother of accused No.1. As rightly contended by learned counsel for the petitioner, since the petitioner left the house with accused No.1 for her duty, it cannot be presumed that she was well aware about accused No.1 taking the motorcycle and riding the same without a valid driving license and also the act of wheeling by accused No.1. The petitioner, being the mother of accused No.1, cannot be prosecuted in a criminal trial only for the reason that she was the owner of the vehicle and *mens rea* is very much required to attract criminal offence. Merely because the petitioner is the mother of accused No.1, for the alleged act committed by accused No.1, she cannot be roped vicariously, since the vicarious liability is alien to criminal law. Such being the position, continuation of criminal proceedings against the petitioner/accused No.2 amounts to abuse of process of Court. Accordingly, I proceed to pass the following:

ORDER

i. The criminal petition is ***allowed***.

ii. The proceedings against the petitioner/accused No.2 in C.C.No.7/2024, arising out of Crime No.203/2023, registered by Nanjangudu Rural Police, for the offences punishable under Sections 304(2) and 308 of IPC and Section 51, 181(3) and 180(5) read with Section 177 of Motor Vehicles Act, presently pending on the file of Senior Civil Judge and JMFC, Nanjangud, are hereby quashed.

iii. Respondent No.2 is at liberty to proceed against the necessary parties i.e., either accused No.1 or the petitioner to claim compensation under the provisions of Motor Vehicles Act. If such a petition already exists, the observations made in this petition shall not come in the way while adjudicating the proceedings before the Motor Accident Claims Tribunal for compensation.

SD/-
(RAJESH RAI K)
JUDGE

HKV/List No.: 1 Sl No.: 10