

Sahul Sahadevan vs State of Kerala

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Court : Kerala

Decided On : Jul-23-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.Rev.Pet/454/2018

Appellant : Sahul Sahadevan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 23RD DAY OF JULY 2024 / 1ST SRAVANA, 1946
CRL.REV.PET NO. 454 OF 2018 CRIME NO.579/2013 OF Gandhinagar
Police Station, Kottayam AGAINST THE ORDER DATED 20.03.2018 IN
SC NO.98/2015 OF ASSISTANT SESSIONS COURT/ADDITIONAL SUB
COURT,KOTTAYAM PETITIONER/ACCUSED: SAHUL SAHADEVAN
AGED 27 YEARS,S/O.SAHADEVAN, POZHIPARAMBIL
HOUSE,KALLARA VILLAGE,KOTTAYAM. BY ADV SRI.NANDAGOPAL
S.KURUP

RESPONDENTS/COMPLAINANT: STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682018. OTHER PRESENT:
SRI.SANGEETHARAJ.N.R, PP THIS CRIMINAL REVISION PETITION
HAVING BEEN FINALLY HEARD ON 23.07.2024, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Crl.R.P. No.454 of 2018
----- Dated this the 23rd day of July, 2024

ORDER

This criminal revision petition is filed against the order

dated 20.03.2018 in Crl.M.P. No.104/2017 in S.C. No.98/2015 on the file of the Additional Assistant Sessions Court, Kottayam. It is a petition filed by the accused under Section 227 Cr.P.C. for discharging the accused under Section 304 IPC. According to the petitioner, the offence under Section 304A IPC alone will attract.

2. Petitioner is the accused against whom a final

report is filed alleging offences punishable under Sections 304 and 337 IPC. The prosecution case is that on 25.06.2013 at 11.30 p.m, the petitioner had driven a stage carriage with registration No.KL-05/L-8584 named Vrindavan and while it was parked on the descending portion of Ammancherry - Panampalam Road at the exit point of bus from the Gandhi

Nagar Private Bus Stand, as the hand brake was not properly applied, the bus moved forward and hit on pedestrians resulting in the death of the deceased and injuring 4 others. It is the case of the petitioner that the facts collected during investigation only reflect a case of accident resulting in rash or negligent user of the bus, and grievous offence under Section 304 IPC is not made out. According to the petitioner,

Section 304 IPC is not applicable in the facts and circumstances of the case even if the entire allegations are accepted and at the maximum, the offence under Section 304A IPC is made out. The petitioner filed an application to that effect. The learned Sessions Judge dismissed the same. Aggrieved by the same, this criminal revision petition is filed.

3. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

4. This Court perused the records also. A perusal of

the relevant records and even the statement of the witnesses accompanied in the final report would show that the allegation is that there is rash and negligent act on the part of the petitioner. The learned Sessions Judge concluded that the offence under Section 304 IPC is prima facie attracted mainly for the reason that there can be an inference of knowledge that the act of the petitioner is with knowledge of the same to commit the offence under Section 304 IPC. Section 304 IPC is extracted hereunder:

304. Punishment for culpable homicide not amounting to murder: Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

5. Section 304 IPC deals about the punishment for

culpable homicide not amounting to murder. Section 299 IPC says that whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the

knowledge that he is likely by such act to cause death, commits the offence of culpable homicide. Even as per the statement given by the charge witnesses, the only case is that there is rash and negligent driving on the part of the

petitioner. In such circumstances, I am of the considered opinion that at this stage, there cannot not be any inference that the offence under Section 304 IPC is made out. Therefore I am of the considered opinion that the petitioner can be tried only under Section 304A IPC. At the appropriate stage, if the court which is trying the offence found that serious offence is committed, the court has got ample power to take appropriate

steps in accordance with law. Therefore I am of the considered opinion that, from the available materials the offence under Section 304A IPC alone is prima facie attracted.

The upshot of the above discussion is that the impugned order

is to be set aside. Therefore, this Criminal Miscellaneous Revision Petition is allowed. The order dated 20.03.2018 in CrI.M.P. No.104/2017 in S.C. No.98/2015 on the file of the Additional Assistant Sessions Court, Kottayam is set aside and the CrI.M.P. is allowed. The Additional Sessions Judge, Kottayam is directed to transfer the case to the competent court for trying the petitioner for the offence under Section 304A IPC.

sd/- P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF CRL.REV.PET NO. 454 OF 2018 PETITIONERS ANNEUXRES: ANNEXURE A1: TRUE COPY OF THE FINAL REPORT IN S.C NO. SESSIONS KOTTAYAM. COURT, ANNEXURE A2: TRUE COPY OF THE 161 STATEMENT OF CW 2. ANNEXURE A3: TRUE COPY OF THE 161 STATEMENT OF CW 3. ANNEXURE A4: TRUE COPY OF THE 161 STATEMENT OF CW 4. ANNEXURE A5: TRUE COPY OF THE 161 STATEMENT OF CW 5. ANNEXURE A6: TRUE COPY OF THE 161 STATEMENT OF CW 6