

Rajan Vs. Joseph and Ors.

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Court : Supreme Court of India

Decided On : Apr-08-2015

Judge : T.S. Thakur and Kurian Joseph and R. Banumathi

Appellant : Rajan

Respondent : Joseph and Ors.

Judgement :

REPORTABLE IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL No.582 OF2015(Arising out of S.L.P. (Crl.) No.1632/2014) RAJAN ...Appellant Versus JOSEPH & ORS. ..Respondents

JUDGMENT

R. BANUMATHI, J.

Leave granted.

2. This appeal by way of special appeal arises out of judgment dated 20.3.2013, passed by the High Court of Kerala at Ernakulam in Crl. M. C. No.1325 of 2007, allowing the application filed u/s 482 Cr.P.C. and quashing the proceeding initiated against the respondents in C.C. No.994 of 2006 u/s 304A IPC, pending before Judicial First Class Magistrate, Kodungallur, Thrissur District, Kerala.

3. Brief facts which led to the filing of this appeal are as under:- The appellant herein is the husband of the deceased-Ammini, who was working as a maid for more than five years in the house of the respondents No.1 & 2. Ammini died on 15.4.2005 due to electric shock allegedly sustained by her while working on washing machine in the house of the respondents No.1 & 2. Initially, the case was registered by the Mathilakam Police as "unnatural death" u/s 174 Cr.P.C, but after investigation 'refer report' was filed, stating that it was "accidental death". The appellant filed a private complaint before the JMFC and the Magistrate took cognizance of the case u/s 304A IPC and issued summons to the respondents. The respondents approached the High Court, praying for quashing the case pending before JMFC. High Court allowed the application thereby quashing the proceedings initiated against respondents under Section 304A IPC. In this appeal, appellant assails the correctness of the said order.

4. We have heard the learned counsels for the appellant and the respondents.

5. The appellant alleged that due to rash and negligent act of the respondents No.1 & 2, deceased-Ammini died. It is undisputed that deceased was working as a maid for the last five years in the house of respondents. On 15.4.2005, the deceased died due to electric shock in the washing machine while working in the house of the respondents No.1 & 2. To prove the charge under Section 304A IPC, it is necessary to establish the guilt of respondents No.1 & 2 i.e. the accused, acted in a negligent manner in not taking reasonable care of their washing machine and caused the death of deceased-Ammini due to electric shock.

6. After due enquiry, the Electric Inspector has given his report dated 23.02.2006, in which he has reported that there is a single phase current connection in the house of the respondents No.1 & 2. He has further reported that although body of the washing machine was eleven years old but when the insulation value was taken, it was found that there is no possibility of current leakage in the washing machine. It was also reported that by mistake deceased might have tried to turn on and off the switch with wet hands and at that time she might have come into contact with the live portion behind the plug and died due to electric shock. As seen from the certificate issued from Modern Hospital, Kodungallur, the

respondents immediately rushed to the hospital to save the life of the deceased and she was declared dead by the Doctor-CW3. Considering the materials on record, we concur with the views expressed by the High Court that no offence under Section 304A IPC is made out and in our view, the High Court has rightly quashed the proceedings initiated before JMFC.

7. Although no rash or negligent act is noticed on the part of the respondents, the fact remains that the deceased-Ammini was doing the household work for the respondents No.1 & 2 and working as per the instructions of the respondents at the relevant time. As the death of the deceased was caused on account of the operation of the washing machine, the respondents No.1 & 2, who engaged Ammini for the said work are liable to compensate the deceased. It is to be noted that the object of providing compensation in this case is to help the family of the deceased. Learned counsel for the State of Kerala has produced a letter No.16770/J2/2015/Home dated 20.03.2015 from Home (J) Department of Government of Kerala for our perusal, as per which the State Government has decided to sanction an amount of Rs.1,00,000/- to the appellant from Chief Minister's Distress Relief Fund. The deceased belonged to a lower strata of the society, in the interest of justice, in exercise of our extra ordinary jurisdiction under Article 142 of the Constitution of India, we deem it appropriate to direct the respondents No.1 & 2 also to pay compensation to the appellant.

8. As decided by the State Government, the third respondent-State of Kerala shall pay an amount of Rs.1,00,000/- from Chief Minister's Distress Relief Fund to the appellant. Additionally, the respondents No.1 & 2 shall pay a compensation of Rs.1,00,000/- to the appellant within a period of four weeks from today. With the above direction, this appeal is disposed of.J.

(T.S. Thakur)J.

(Kurian Joseph)J.

(R. Banumathi) New Delhi, April 8, 2015

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