

**In Re: Sahadevan**

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**SooperKanoon Citation :** [sooperkanoon.com/794013](http://sooperkanoon.com/794013)

**Court :** Chennai

**Decided On :** Jul-23-1954

**Reported in :** AIR1955Mad548; 1955CriLJ1267; (1954)IIMLJ765

**Judge :** Balakrishna Ayyar, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 35; [Indian Penal Code \(IPC\), 1860](#) - Sections 71 and 304A; [Motor Vehicles Act, 1939](#) - Sections 121

**Appeal No. :** Criminal Appeal No. 284 of 1954

**Appellant :** In Re: Sahadevan

**Advocate for Pet/Ap. :** State Prosecutor, for the State

**Judgement :**

**Balakrishna Ayyar, J.**

1. The facts of the case are clear. In the morning of 14-9-1953 the accused took out a lorry along Brodics Road. Now, there was no fluid in the brake system of the lorry with the result that the foot-brake was totally ineffective and the hand-brake only nominally effective. When the accused came to a bridge near the fish farm on Brodics Road, a bus M.S.P. 4583 was coming from the opposite direction. There was no room for . both the vehicles on the bridge.

The accused tried to stop but was unable to do so owing to the defective condition of the brakes. To avoid crashing into the bus the accused swerved to a side and his lorry was stopped by the parapet wall of the bridge. Now, an old man was then walking over the bridge and he was crushed between the parapet wall and the lorry of the accused and killed. On these facts the Third Presidency Magistrate convicted the accused under Section. 304-A, I. P. C. and under Sections 116 and 121, Motor Vehicles Act.

In respect of the offence under Section 304-A, I, P. C. he sentenced the accused to undergo rigorous imprisonment for one year. In respect of the offence under Section 116, Motor Vehicles Act, he sentenced him to undergo rigorous imprisonment for one month, this sentence being made to run concurrently with the sentence imposed under Section 304-A, I. P. C. In addition, the learned Magistrate imposed a fine of Rs. 200 on the accused in respect of the offence under Section 121, Motor Vehicles Act.

Since the sentence under Section 116, Motor Vehicles Act has been made to run concurrently with the sentence imposed under Section 304-A, I. P. C., the question whether that sentence is a legal one or not becomes a matter of pure academic interest. But that cannot be said of the sentence imposed under Section 121, Motor Vehicles Act since it is additional and substantive.

2. Section 121, Motor Vehicles Act, so far as it is now material runs as follows :

'Any person who drives . . . . in any public place a motor vehicle . . . . while' the vehicle .. ... has any defect, which such person, knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with fine which may extend to five hundred rupees.'

3. Now, the death of the old man was a direct, natural and probable consequence of the act of the accused in driving along the highway a lorry which had practically no brakes. I am clear in my mind that when an unlawful act is committed and

certain consequences follow from it in the usual course and the person concerned is punished in respect of such consequences, he cannot be punished over again, i.e. to say additionally for the 'act which produced those consequences.

If one person stabs another with a knife and the victim dies, the offender can be punished for murder. But he cannot be punished in addition for causing grievous hurt. Similarly, under Section 395, I. P. C. a person can be punished for committing dacoity but he cannot at the same time be given an additional punishment for preparing to Commit dacoity under Section 399, I.P.C. Under Section 121, I. P. C. a person can be convicted for waging war against the Government but he cannot be given an additional punishment under Section 122 for preparing to wage war.

Under Section 132, I. P. C. a person can be punished for abetting an assault by an officer, soldier, sailor or airman on any superior officer being in the execution of his office, if such assault is committed in consequence of the abetment. But he cannot at the same time be given an additional punishment under Section 133, I. P. C. for abetment alone. Under Section 109, I. P. C. a person who abets an offence shall, if the act abetted is committed in consequence of the abetment, be punished, in the absence of other express provision, with the punishment provided for the offence.

Section 116, I. P. C. provides for punishment where the offence is abetted but that offence is not committed in consequence of the abetment. It has never been suggested that a person can be punished under Section 109, I. P. C. and over again under Section 116, I. P. C. It is unnecessary to multiply analogies further. I have no doubt whatsoever that the imposition of one punishment under Section 304-A, I. P. C. and a further punishment under Section 121, Motor Vehicles Act is opposed to law.

4. In the circumstances I confirm the conviction and sentence under Section 304-A, I. P. C. and set aside the conviction and sentence imposed under Section 121, Motor Vehicles Act. The fine, if realised, must be refunded. I express no opinion on the correctness of the sentence under Section 116, Motor Vehicles Act since as I stated at the outset the question is only of academic interest.

