

A. Venkataraman Vs. State

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Court : Chennai

Decided On : Mar-30-1989

Reported in : I(1990)ACC120

Judge : Arunachalam, J.

Appellant : A. Venkataraman

Respondent : State

Advocate for Pet/Ap. : Mr. P. Jagadeesan

Judgement :

Arunachalam, J.

1. The petitioner is the second accused in C.C. No; 702 of 1987 on the file of the Judicial First Class Magistrate (P), Salem. The petitioner along with another is sought to be prosecuted for an offence under Section 304-A, Indian Penal Code at the instance of the respondent, who had registered Crime No, 104 of 1987 on 19-6-1987 at 5 p.m. on the first information report furnished by one Gnanamani, who was working as a mistry under the petitioner.

2. The petitioner seeks to invoke the inherent powers of this Court under Section 482, CrI. P.C. to have the proceedings as against him in the said calendar case quashed on the ground that even if the entire averments made by the prosecution

were to be taken at their face value, no offence is disclosed.

3. A few facts may be necessary for the disposal of this petition. The petitioner appears to be a granite exporter possessing an export license. He got in touch with K.V, Estate at Yercaud, which possessed a mining licence, and undertook a contract to remove black granite stones to facilitate export. The occurrence is said to have taken place near Sommarkadu where labourers had been engaged under the supervision of Gnanamani, the first informant, for the purpose of removing granite stones. On 19-6-1987 at or about 11-30 a.m. while the labourers were engaged in digging black granite stones, one Amaravathi, one of the labourers, was wedged in between two boulders and crushed to death, due to fall of one of such boulders. It appears that at the relevant time of this incident the first accused Manickam was digging black granite stone by using a crowbar. Gnanamani, the supervisor, immediately got in touch with the petitioner who was at Salem and was not present at the scene and later set the law in motion by preferring a complaint to the respondent. The respondent after investigation has filed the charge-sheet against the petitioner and the said Manickam for an offence under Section 304-A, Indian Penal Code. The allegation against the petitioner is that during the course of the same transaction when Manickam '(A-I) was engaged in digging the mud around the boulder by means of a crowbar the petitioner being the contractor of the quarry was so negligent in allowing the first accused, deceased Amaravathi and several other labourers to dig out a boulder without taking adequate care, with the result one of the boulders rolled down over Amaravathi and caused her death. Seventeen witnesses have been examined during investigation to substantiate the prosecution case.

4. Mr. P. Jagadeesan, learned Counsel for the petitioner has taken me through the statements recorded during investigation from several witnesses. None of the witnesses implicated the petitioner in the crime. It is admitted by the prosecution that the petitioner was not present at the scene. It is also not the case of the prosecution that the petitioner had directed any particular work to be done on the fateful morning in a particular mode which could even prima facie indicate lack of due care and caution before permitting the labourers to undertake such arduous task.

5. Section 304-A, I.P.C. seeks to punish a person who causes the death of another person by doing any rash or negligent act, not amounting to culpable homicide. The ingredients are necessary to constitute the offence under Section 304-A, I.P.C. and they are, (a) there must be death of a human being; (b) the accused must have caused the death and (c) the death must be by the doing of a rash or negligent act though such an act did not amount to culpable homicide.

6. On the materials detailed by me earlier, needless to say that there is not even an iota of evidence to connect the petitioner with the crime even remotely. A similar question was considered by Krishnaswamy Reddy, J. in *Public Prosecutor v. Pitchaiah Mooppanar alias Pitchaiah Pillai* AIR 1970 Mad. 189, In that case the accused, a Manager of a school had put up a building employing masons therefor. The building collapsed killing several inmates due to improper construction of use of excess sand in the mortar. This Court held that the accused could not be held guilty for the negligence of the persons who actually constructed the building which negligence was the cause consequent for the collapse of the building and that the fact accused's act might have been the *causa sine qua non* was not sufficient. On the facts of this case, as stated earlier, we do not even have the material to indicate that the petitioner had asked the labourers to work on that particular date in a mode directed by him.

7. In *Mohomedali Rengawalla v. State of Maharashtra*, : [1965]2SCR622 the Supreme Court observed that death must be the direct result of the rash or negligent act of the accused and the act must be sufficient cause without intervention of another's negligence. In *Sulemani Rahiman v. State of Maharashtra* : 1968 CriLJ1013 the Supreme Court has held that direct nexus between death of person and rash and negligent act of accused is essential. Applying the law laid down by the Supreme Court and this Court to the facts of this case, I have no hesitation in coming to the conclusion that there is no material whatsoever to connect the petitioner with the crime, and if any trial is allowed to be conducted on the materials put forth by the prosecution it will bring nothing but a mock trial and an exercise in futility. The learned Government Advocate Mr. Munirathina Naidu has fairly conceded that there is no further material to connect the petitioner with the crime and the material already placed before the Court falls short of the

ingredients necessary to constitute an offence under Section 304- A.I.P.C. against the petitioner.

8. On the reasoning aforementioned this petition deserves to be allowed. It is accordingly allowed and the proceedings in C.C.No. 702 of 1987 on the file of the Judicial First Class Magistrate (P), Salem, in so far as they relate to the petitioner (second accused) A. Venkatraman are quashed.

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