



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3327]

**WEDNESDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL PETITION NO: 6113/2021

Between:

Naresh Rai, and Others

...PETITIONER/ACCUSED(S)

AND

The State of A P & others

...RESPONDENT/COMPLAINANT(S)

Counsel for the Petitioner/accused(S):

1.MADHU SUDHAN P

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR (AP)

The Court made the following ORDER:

This Criminal Petition, under Section 482 Cr.P.C., has been filed by the petitioners/A1 and A2 seeking to quash the proceedings in C.C.No.476 of 2019 on the file of the learned Additional Junior Civil Judge, Srikalahasti, Chittoor District, registered for the offence punishable under Section 304-A IPC.

2. The case of the prosecution, in brief, is that the deceased, namely Sagir Ansari, was working as a Crane Operator in Pushpith Steel Private Factory Limited, Merlapaka Village, Yerpedu Mandal, and was residing in the factory quarters along with his family. On 28.10.2014 at about 10.00 p.m., he left his house to attend night duty in the factory. In the early hours of 29.10.2014 at about 04.50 a.m., one co-worker informed 2nd respondent-informant, who is the wife of the deceased, that while the deceased was working in the factory, hot iron metal, being lifted through a ladle, fell on the floor and the ladle containing the hot metal was sprinkled surrounding, due to the hot steam, the deceased sustained burn injuries all over his body. Immediately thereafter, she rushed to the factory and came to know that the deceased had been shifted to SVRRGG Hospital, Tirupati, for treatment. Thereafter, she, along with the family members, proceeded to the hospital and found the deceased dead with burn injuries. Basing on the report lodged by her on 29.10.2014 at about 02.30 p.m., a case in Crime No.128 of 2014 of Yerpedu police station was registered for the offence under Section 304-A IPC against the accused. During course of investigation, inquest was conducted over the dead body of the deceased and statements of witnesses were recorded. The postmortem examination revealed that the cause of death was due to neurogenic shock consequent to burns.

3. During investigation, the Inspector of Factories, Chittoor, furnished a report stating that the factory management failed to provide necessary safety precautions to the workers, such as Hot

Metal Splash Impact Resistance Cabin to the EOT Crane, prevention of stagnated water near the pit side, and suitable personal protective equipment like heat resistant clothing, gloves and face shields. It was further reported that A2, being the Occupier, A3, being the Manager under the Factories Act, 1948, along with A1, being the Supervisor, were responsible for ensuring safety measures in the factory. Hence, A1 to A3 are liable for punishment under Section 304-A IPC for not providing safety precautions while the workers in the duty such as Hot Metal Splash Impact Resistance Cabin to the EOT Crane and preventing the stagnated water on the floor of the pit side and provision of suitable personnel protected equipments like heat resistance clothing, gloves, face shields to the workers.

4. Sri P.Madhu Sudhan, learned counsel for the petitioners, submits that the allegations in the charge sheet pertain only to non-provision of safety measures and protective equipment in the factory and, therefore, the alleged acts fall within the purview of Section 92 of the Factories Act, 1948. It is contended that when the special enactment provides punishment for such violations, simultaneous prosecution under Section 304-A IPC for the very same incident is not maintainable. In support of his contention, he placed reliance on the judgments of the Hon'ble Supreme Court in ***Kolla Veera Raghav Rao Vs. Gorantla Venkateswara Rao and Another***¹, the High Court of Karnataka in ***G.V. Prasad & Another v. State & Another in Crl.P.No.200662 of 2024*** and the

¹ (2011) 1 Supreme 636

High Court of Madhya Pradesh in ***Neeraj Verma Vs. State of Madhya Pradesh***².

5. Learned counsel further contended that A2 and A3 were already prosecuted and convicted in C.C.No.284 of 2015 on the file of the Court of the learned Additional Judicial Magistrate of First Class, Srikalahasti, by judgment dated 19.04.2016 for violations under Section 41 read with Rule 61-F(2)(SC)(B), Section 41-C, Section 29 read with Rule 55-A, Section 40(1) read with Rule 102, Section 87 read with Rule 95, Schedule XXX Paragraph 12 read with Section 41 and Rule 61-E read with Section 92 of the Factories Act, 1948 arising out of the very same incident, and a total fine amount of Rs.70,000/- was imposed, and therefore, continuation of the present prosecution under Section 304-A IPC on the same set of allegations amounts to double jeopardy and abuse of process of law. It is further contended that no specific overt acts are attributed against A1 and A2 except stating that A1 is Supervisor, and A2 is Occupier, of the factory.

6. Learned Assistant Public Prosecutor opposed the petition contending that the material collected during investigation clearly discloses prima facie negligence on the part of A1 and A2 in providing adequate safety measures and protective equipment to the workers, which resulted in the death of the deceased. It is contended that the allegations attract the ingredients of Section 304-A IPC and the same cannot be quashed at the threshold.

He further contended that the provisions of the Factories Act, 1948 and Section 304-A IPC operate in different fields and,

² (2016) 148 FLR 289

therefore, prosecution under the IPC is maintainable. Accordingly, he prayed to dismiss the Criminal Petition.

7. Heard. Perused the record.

8. The offence alleged against the petitioners is punishable under Section 304A IPC. Section 304A IPC deals with causing death by negligence. In order to attract the offence under Section 304A IPC, there should be an allegation that because of the rash or negligent act of the accused, the incident is said to have been taken place.

9. Criminality as far as rash acts, lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence occurs when there is gross and culpable neglect or failure to exercise the required care and precaution to guard against injury, either to the public, in general, or to an individual, in particular, which, having regard to all the circumstances, was the imperative duty of the accused person to have adopted. Negligence is the omission to do something which a reasonable man, guided upon the consideration which ordinarily regulate the conduct of human affairs, would do, or, the doing of something which a prudent and reasonable man would not do. In order to attract an offence under Section 304A IPC, the death must be the direct or proximate result of the rash or negligent act of the accused.

10. It is the case of prosecution that the deceased Sagir Ansari, while working as a Crane Operator in Pushpith Steel

Private Factory Limited, Merlapaka Village, Yerpedu Mandal, in the early hours of 29.10.2014 at about 04.50 a.m., hot iron metal, being lifted through a ladle, fell on the floor and the ladle containing the hot metal was sprinkled surrounding, due to the hot steam, sustained burn injuries all over his body, and succumbed to the injuries while undergoing treatment.

11. A perusal of the material available on record shows that the entire allegations against the petitioners relate to failure in providing adequate safety precautions and protective equipment in the factory premises, namely non-provision of Hot Metal Splash Impact Resistance Cabin to the EOT Crane, prevention of stagnated water near the pit side and provision of protective equipment like heat resistant clothing, gloves and face shields to the workers. The report submitted by the Inspector of Factories also specifically refers to violation of safety measures contemplated under the Factories Act, 1948.

12. The principal contention of the petitioners is that, when the alleged acts squarely fall within the ambit of the provisions of the Factories Act, 1948, particularly Section 92 thereof, prosecution under Section 304-A IPC on the very same set of allegations is not maintainable. In support of the said contention, reliance is placed on the judgment of the High Court of Karnataka in **G.V. Prasad case (supra)**, wherein the Karnataka High Court, while dealing with a similar industrial accident arising out of violation of safety measures in a factory, held that simultaneous prosecution under Section 304-A IPC and Section 92 of the Factories Act for

the very same incident is impermissible, as the special enactment occupies the field relating to safety violations in factories.

13. Further, in **Kolla Veera Raghav Rao case** (supra), the Hon'ble Supreme Court held that once a person is prosecuted under a special enactment on a particular set of facts, a second prosecution under the general law on the same facts would offend the protection against double jeopardy embodied under Article 20(2) of the Constitution of India and Section 300 Cr.P.C. Likewise, the High Court of Madhya Pradesh in **Neeraj Verma case** (supra) held that when the alleged omission or negligence is specifically covered by the provisions of the Factories Act, prosecution under Section 304-A IPC on the same allegations is not sustainable.

14. In the present case, the allegations against the petitioners are entirely founded on alleged non-compliance of safety requirements in the factory, such as non-provision of Hot Metal Splash Impact Resistance Cabin to the EOT Crane, failure to prevent stagnated water near the pit side and non- provision of protective equipment to the workers. The report submitted by the Inspector of Factories also specifically refers to violation of safety measures contemplated under the Factories Act, 1948. Except stating that A1 is Supervisor and A2 is Occupier of the factory, no specific overt act constituting rash or negligent conduct independently attracting Section 304-A IPC is attributed against them.

15. Further, the material placed before this Court discloses that A2 and A3 were already prosecuted and convicted in

C.C.No.284 of 2015 on the file of the Court of the learned Additional Judicial Magistrate of First Class, Srikalahasti, by judgment dated 19.04.2016 for violations under the provisions of the Factories Act, 1948 arising out of the very same incident and were imposed with a total fine of Rs.70,000/-. Therefore, permitting continuation of the present prosecution under Section 304-A IPC on the same set of allegations would amount to parallel prosecution for the very same cause of action, which is impermissible in law.

16. In view of the law laid down in the above referred judgments and having regard to the nature of allegations in the present case, this Court is of the considered opinion that continuation of proceedings against the petitioners/A1 and A2 for the offence punishable under Section 304-A IPC amounts to abuse of process of law.

17. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/A1 and A2 in C.C.No.476 of 2019 on the file of the learned Additional Junior Civil Judge, Srikalahasti, Chittoor District, are hereby quashed.

As a sequel thereto, the miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

K. SREENIVASA REDDY, J.

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HON'BLE SRI JUSTICE K. SREENIVASA REDDY**Criminal Petition No.6113 of 2021****Date:08.04.2026**

JLV

*** THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY
+ CRIMINAL PETITION No: 6113 OF 2021**

% 08.04.2026

1. Naresh Rai and Another

.....Petitioners

And:

The State of A.P. through
S.H.O., and Another

....Respondents.

!Counsel for the Petitioner

: Sri Madhu Sudhan P

^Counsel for the respondent

: Public Prosecutor

<Gist:

>Head Note:

? Cases referred:

1) (2011) 1 Supreme 636

2) (2016) 148 FLR 289

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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CRIMINAL PETITION No: 6113 OF 2021**DATE OF JUDGMENT PRONOUNCED: 08.04.2026****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE K SREENIVASA REDDY**

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| 1. <i>Whether Reporters of Local newspapers may be allowed to see the Judgments?</i> | Yes/No |
| 2. <i>Whether the copies of judgment may be marked to Law Reporters/Journals</i> | Yes/No |
| 3. <i>Whether Your Lordships wish to see the fair copy of the Judgment?</i> | Yes/No |

K. SREENIVASA REDDY, J