

HIGH COURT OF KERALA**Bench: Justice P.G. Ajithkumar****Date of Decision: 14th June 2024****Case No.:**

CRL.REV.PET No. 211 of 2017

Against the Charge dated 20th January 2017 in SC No. 1132 of 2015 of the Additional Sessions Court-III, Kozhikode

REVISION PETITIONERS:**Asif Rehman and Others ...Revisionists**

Versus

RESPONDENTS:**State of Kerala and Othersv....Respondents****Legislation:**

Sections 304(ii), 325, 34 of the Indian Penal Code, 1860 (IPC)

Section 192-A of the Motor Vehicles Act, 1988'

Sections 397 and 401 of the Code of Criminal Procedure, 1973 (Cr.P.C.)

Subject: Criminal Revision Petition challenging the legality and propriety of the charges framed by the trial court.

Headnotes:

Criminal Procedure – Framing of Charges – Petitioners challenged charges framed under Sections 304(ii) and 325 of IPC and Section 192-A of Motor Vehicles Act – Trial court's charge lacked necessary details against the second petitioner – High Court held charges for culpable homicide and grievous hurt untenable against the second petitioner due to lack of direct knowledge or involvement – Charges under Section 192-A of MV Act sustained [Paras 1-6].

Motor Vehicles Act – Liability of Vehicle Owner – Second petitioner, as owner, allowed driving of vehicle without speed governor – High Court found sufficient basis for charge under Section 192-A of MV Act – Remanded case to trial court for framing fresh charges considering observations [Paras 4-6].

Prosecution and Fair Trial – Revisiting Charges – High Court emphasized proper framing of charges to ensure fair trial – Incomplete or vague charges set aside to prevent undue prejudice to accused – Directed trial court to expedite proceedings with properly framed charges [Paras 6-7].

Decision: Revision petition allowed in part. The charge dated 20th January 2017 framed by the trial court was set aside. The trial court was directed to frame fresh charges in accordance with the observations made by the High Court and proceed to dispose of the case expeditiously.

Referred Cases:

- Renjith Raj v. State, represented by C.I. of Police, [2024 (1) KHC 298 : 2024 (1) KLT 894]

Representing Advocates:

For Petitioners: Adv. V.V. Surendran

For Respondents: Sr. Public Prosecutor Smt. Pushpalath M.K.

ORDER

In this revision petition filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (Code) the petitioners challenge the legality and propriety of the charge framed by the trial court against them.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

3. The charge framed by the trial court on 20.01.2017 reads,-
Firstly, that on 25.12.2015 around 12.45 noon in the bus waiting shed situates nearby to a road junction at Muliyangal in Nochad Village, you in furtherance of your common intention committed culpable homicide not amounting to murder of a boy namely Shine Lal and thereby committed an offence punishable under Section 304(ii) r/w.34 of the Indian Penal Code, and within my cognizance. Secondly, that on the same time and place, you in furtherance of your common intention voluntarily caused CrI.R.P.No.211 of 2017 grievous hurt to CW7 namely Janu and thereby committed an offence punishable under Section 325 r/w.34 of the Indian Penal Code, and within my cognizance.

Thirdly, that on the same time and place, you A1 being the driver of tipper lorry bearing registration No. KL57/G-3004, drove the above said vehicle having noticed the disconnection of the speed governor and thereby violated the permit and thereby committed an offence punishable under Section 192-A of the M.V. Act, and within my cognizance. Lastly, that on the same time and place, you A2 being the owner of the above said tipper lorry caused it to be driven after detaching the speed governor and hence violated the permit and thereby committed an offence punishable under Section 192-A of the M.V. Act, and within my cognizance. And I hereby direct that you be tried by this court on the said charge.”

4. The charge framed by the trial court does not contain the details, which in its opinion constitute an offence punishable under Sections 304(ii) and 325 of the Indian Penal Code, 1860 (IPC) as against the 2nd petitioner. On a reading of the final report, it is seen that the reason for framing charges for the said offences are that the 1st petitioner, being the CrI.R.P.No.211 of 2017 driver of the tipper lorry bearing registration No.KL-57-G3004, drove it along public road in an enormous speed without replacing its main leaf, which was broken. The attribution is that by driving the lorry in such a way, the 1st petitioner was aware of the inevitable consequences of causing death of and injuries to passengers of other vehicles and pedestrians. The allegation against the 2nd petitioner, who was the owner of that tipper lorry, is that despite informing by the 1st petitioner about breakage of its main leaf, he instead of taking timely steps to replace the leaf before driving the lorry further, instigated the 1st petitioner to drive the lorry fast so that the second load of the consignment could also be carried.

5. Having heard the submissions of the learned counsel for the petitioners and the learned Public Prosecutor, I am of the view that, by no stretch of imagination, knowledge as to the likely result of death of and injuries to pedestrians and passengers of other vehicles by driving of the lorry could be attributed to the 2nd petitioner, who did not have any direct knowledge concerning the manner in which the lorry was CrI.R.P.No.211 of 2017 about to be driven. It is not able to say that on the basis of the available materials that the death and injuries were the proximate result of the act of the 2nd

accused, without which he cannot be asked to stand trial for those offences. Hence, the charge framed against the 2nd petitioner for the offence under Sections 304(ii) and 325 of the IPC is untenable in law.

6. The allegation that the 2nd petitioner allowed the 1st petitioner to drive the vehicle with the speed governor detaching certainly can form the basis for a charge against the 2nd petitioner for the offence under Section 192A of the Motor Vehicles Act, 1988. Accordingly, I hold that the charge dated 20.01.2017 framed by the trial court is defective and liable to be set aside. The trial court has to frame fresh charges in the light of the observations made above and the observations by this Court in **Renjith Raj v. State, represented by C.I. of Police [2024 (1) KHC 298 : 2024 (1) KLT 894]**.

7. The revision is accordingly allowed and the matter is remitted to the trial court. The trial court shall frame fresh charges and proceed to try and dispose of the case in accordance with law, as expeditiously as possible.

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