

RAJAN

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v.

JOSEPH & ORS.

Criminal Appeal No. 582 of 2015

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APRIL 08, 2015

[T.S. THAKUR, KURIAN JOSEPH AND  
R. BANUMATHI, JJ.]

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*Penal Code, 1860 : s.304A – Accidental death – Victim-deceased working as maid died due to electric shock while working on washing machine in the house of respondents – Complaint u/s.304A – Cognizance of offence – High Court quashed the proceedings – Held: The evidence showed that there was no rash and negligent act on part of respondents – After the incident, respondents had even immediately rushed to hospital to save the life of the deceased – High Court rightly held that offence u/s.304A was not made out – However in the interest of justice, respondents are directed to pay compensation to the family of the deceased – Constitution of India, 1950 – Article 142.*

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**Disposing of the appeal, the Court**

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**HELD: 1. After due enquiry, the Electric Inspector gave his report, in which he reported that there was a single phase current connection in the house of the respondents 1 and 2. He 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 was no possibility of current leakage in the washing machine. It was also reported that by mistake**

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A 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, the respondents  
B immediately rushed to the hospital to save the life of the  
deceased and she was declared dead by the Doctor. The  
High Court was right in holding that no offence under  
Section 304A IPC was made out. [Para 6] [180-E-H; 181-  
C A]

2. Although no rash or negligent act on the part of  
the respondents was noticed, the fact remained that the  
deceased was doing the household work for the  
respondents 1 and 2 and working as per the instructions  
D 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 who engaged  
her for the said work were liable to compensate the  
E deceased. The object of providing compensation in this  
case is to help the family of the deceased. The deceased  
belonged to a lower strata of the society, in the interest  
of justice, in exercise of extra ordinary jurisdiction under  
Article 142 of the Constitution of India, the respondents  
F are directed also to pay compensation to the appellant.  
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  
G shall pay a compensation of Rs.1,00,000/- to the  
appellant. [Paras 7, 8] [181-B-F]

CRIMINAL APPELLATE JURISDICTION : Criminal  
Appeal No. 582 of 2015  
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From the Judgment and Order dated 20.03.2013 of the High Court of Kerala at Ernakulam in Crl. MC No. 1325 of 2007 A

Sidhartha Dave, Sajith P., for the Appellant.

M. T. George, Kavitha K. T., Santosh Subramanyan, K. J. Joby, T. G. Narayanan Nair, K. N. Madhusoodhanan for the Respondents. B

The Judgment of the Court was delivered by C

**R. BANUMATHI, J. 1.** 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. D

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 E F G H

A 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.

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

C 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.

E 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

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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. A

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. B  
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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. G