

Rakesh Ranjan Gupta

Vs

State of U.P. and Another

Criminal Appeal No. 703 of 1998

(CJI M. M. Punchi, K. T. Thomas, S. R. Babu JJ)

24.07.1998

ORDER

1. Leave granted. Heard both sides.
2. The appellant in this case is a medical practitioner. He stands charge-sheeted for offence under Section 304-A of the Indian Penal Code on the basis of a complaint made by the second respondent. At the FIR stage, the appellant moved the High Court for quashing the FIR on the premise that the offence under Section 304-A has not been disclosed in the allegations. But the High Court, instead of quashing the proceedings, permitted the appellant to raise this question before the trial court. In the meanwhile, the appellant was charge-sheeted. The allegations of the second respondent are that when her husband was in a serious condition, he was taken to the hospital wherein the appellant, the doctor was working as a medical practitioner and that the appellant did not attend to the patient immediately. On being insisted by her, the appellant became angry and there was exchange of words between them. The gravamen of the case is that the appellant administered an injection to the patient and the patient was taken to another hospital where he was pronounced dead.
3. The above allegations do not disclose, prima facie, a case of rash or negligent act on the part of the appellant so as to attract the penal provision under Section 304-A IPC. If there was delay on the part of the doctor to attend on the patient, that may at the worst be a case of civil negligence and not one of culpable negligence falling under the above section. That apart, the cause of death has now been disclosed from the report of the chemical examiner, as one of consuming poison. The viscera examined in the chemical laboratory showed that result. It is nobody's case that the appellant has administered poison to the patient. It is now apparently clear that death was not on account of anything which the appellant did to the patient. It was primarily due to the poison being consumed by the deceased. Therefore, by no stretch of imagination can it be said that death of the deceased was caused by any act done by the appellant.
4. The admitted facts being thus, this is not a case to proceed against the appellant in a criminal court for offence under Section 304-A IPC. The charge-sheet is liable to be quashed or else the appellant is likely to be subjected to unnecessary harassment for facing criminal prosecution. We quash it without prejudice to the right of the legal representatives of the deceased to resort to any other action permissible under law.
5. The appeal is allowed accordingly.