
(1976) 04 MP CK 0006

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 544 of 1974

Ghanshyamdas

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 02-04-1976

Acts Referred:

Penal Code, 1860 (IPC) — Section 304A

Citation : (1977) JLJ 223

Hon'ble Judges : C.P. Sen, J

Bench : Single Bench

Advocate : D.D. Bhargava, for the Appellant; R.P. Sinha, for the Respondent

Judgement

C.P. Sen, J.—This is a reference by the Additional Sessions Judge for quashing the charge u/s 304-A of the Indian Penal Code against the non-applicant.

2. The non-applicant is a Vaidyaraj holding a degree of A.V.M.S. from the Board of Indian Medicines, Madhya Pradesh, He is privately practising in medicines at Rehli. On 28-8-1971 deceased Babulal Yadav came to his dispensary. After examining the deceased, the non-applicant gave one coramine injection as there was heavy coughing and there was difficulty in breathing. Thereafter the deceased collapsed. The body was sent for post mortem examination and according to the Doctor the cause of death was due to obstruction of bronchie in both lungs by tenacious sputum which led to suffocation and respiratory failure. It was also noted that the deceased was a patient of bronchial asthma for the last 25 years. It was not mentioned in the report that coramine injection had the effect of accelerating the death, However, the police referred the matter to the Civil Surgeon who gave his opinion that coramine injection is not given to a asthma patient. Therefore, the non-applicant was challenged u/s 304-A before the trial Magistrate who framed charge under that section. A revision was filed and this reference has been made.

3. The Supreme Court in Suleman Rehman Mulani and Another Vs. State of

Maharashtra, has held that the requirements of this section are that the death of any person must have been caused by the accused by doing any rash or negligent act. In other words, there must be proof that the rash or negligent act of accused was the proximate cause of the death. There must be direct nexus between the death of a person and the rash or negligent act of the accused.

4. The post mortem report does not show that the coramine injection was the proximate cause of the death, on the other hand it mentions that the death was due to obstruction of bronchie in both the lungs. It is undisputed that the deceased was an old patient of bronchial asthma. The possibility of the deceased dying in natural death due to his illness cannot be ruled out. Even the opinion of the Civil Surgeon does not specify that there was any ill effect due to coramine injection "Coramine is a powerful circulatory and respiratory stimulent with a wide margin of safety. It has a direct action on the respiratory centre, producing an increase in respiratory rate and volume. Circulation through the heart and lungs is improved and the blood supply to the myocardium is augmented due to coronary vasodiatation. The improvement in coronary blood flow results in an increased stroke volume, the heart rate remaining constant. In circulatory depression Coramine produces an increase in blood pressure and a fuller pulse by increasing resistance in the peripheral circulation and by increasing cardiae output. Coramine is repidly absorbed and is of extremely low toxicity. Since it is non-cumulative in action, repeated injections may be given when necessary (Therapeutic Index-Ciba).

Coramine is prescribed for bronchities, mico-cardial insufficiency, respiratory depression etc For Bronchiel asthma Coramine Ephedrine is prescribed. So looking to all these facts and circumstances, it could not be said that the death was caused due to giving of Coramine injection. There is no material on record to sustain the charge that it was due to this injection that death was caused to the deceased. Even if Coramine injection was not to be given as stated by the Civil Surgeon, still the not-applicant committed no offence in administering the life saving drug to the deceased who was on the point of collapse.

5. Accordingly the reference is accepted, the charge framed against the non-applicant u/s 304-A of the Indian Penal Code is quashed and he is discharged from the case.