

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Petn. 18 of 2018

Sri Bikash Chakraborty
S/o Sri Sukhen Chakraborty, resident of village-Ranirgaon,
Karaiban, P.S. Ranirbazar, District-West Tripura.

----Petitioner(s)

Versus

1. The State of Tripura
represented by the Secretary, Home Department, Govt. of
Tripura, Agartala, Civil Secretariat, New Capital Complex,
P.O. Kunjaban, Agartala, West Tripura.
2. The Officer-in-Charge,
Ranirbazar Police Station, Ranirbazar,
District-West Tripura.

----Respondent(s)

For Petitioner(s)	:	Mr. DC Roy, Adv.
For Respondent(s)	:	Mr. B Choudhury, PP.
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE S. TALAPATRA

Judgment & Order (Oral)

27/04/2018

Heard Mr. DC Roy, learned counsel appearing for the petitioner as well as Mr. B Choudhury, learned PP appearing for the State.

2. This Court is confronted with a very strange situation. There was a road traffic accident on 23.01.2016 in which one Smt. Karuna Chakraborty (aged 55 years) received serious injuries and she was hospitalized in the GBP Hospital, Agartala and for better management, it appears that the victim was referred to ILS Hospital, Agartala. In this regard, one information was lodged to the Officer-in-Charge of Ranirbazar P.S. by the victim's husband namely, Sukhen Chakraborty on

the basis of which Ranirbazar P.S. Case No. 2016/RNB/004 was registered under Section 279/338 of the IPC and was taken up for investigation.

3. Mr. B Choudhury, learned PP on instruction has submitted that the police on completion of investigation filed the chargesheet on 30.04.2016 and the trial has been completed on acquitting the accused person from the said charge, but when the trial has been completed that information is not definite. It appears that the victim died on 08.05.2016 and in this regard a death certificate issued by the Registrar of Birth and Death has been submitted, but no medical report in respect of the death is available along with the petition showing the cause of death. As such this Court cannot come to an inference in respect of the cause of death. The allegation as made against the respondents in this petition is that they did not register a case for the death of the victim for the rash and negligent act of the driver of the offending vehicle bearing registration no. TRO1-Y-1669 (Truck).

4. Since there is no investigation or proceeding pending, Mr. Choudhury, learned PP has submitted that the police did not proceed further because it would not bring any fruitful result as the accused has already been acquitted from the charges leveled under Section 279/338 of the IPC as the trial court has held that the rashness and negligent act could not be proved by the prosecution.

5. Mr. Roy, learned counsel appearing for the petitioner, however, has submitted that there is no legal bar to register a

fresh case for the death of the victim under Section 304A of the IPC.

6. True it is that if the death is related to the said road traffic accident, there is no legal bar. Even the doctrine of *double jeopardy* will not come to operate against the State inasmuch as that is distinctly a different offence.

7. Further, Mr. Roy, learned counsel has submitted that the incidence of death was informed to the Officer-in-Charge of Ranirbazar police station on 12.05.2016 but this Court is not in a position to ascertain whether at all such information was received by the Officer-in-Charge of the Ranibazar police station or not.

8. If such information has been filed by the petitioner, after conducting a preliminary inquiry into the matter, the police may register a case for the death of the victim if it is related to the motor accident and based on the outcome of the preliminary inquiry in the given circumstances.

9. Having observed thus, this petition stands allowed to the extent as indicated above.

A copy of this order be furnished to Mr. B Choudhury, learned PP appearing for the State.

JUDGE