IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISION JURISDICTION

[CIRCUIT BENCH AT PORT BLAIR]

****

PRESENT: HON'BLE JUSTICE BISWAROOP CHOWDHURY

CRR /37/ 2026

Shri B. Veeraiah ... Petitioner

Versus

The State ... Respondent

For the Petitioner	:	Mr. Adarsh Ilango
For the Respondent	:	Mr. Sumit Kumar Karmakar
Heard on	:	August 25, 2026
Judgment delivered on	:	September 02, 2026
Judgment uploaded on	:	September 02, 2026

BISWAROOP CHOWDHURY, J.

1. The petitioner in the instant application is an accused under section 106(1) of Bharatiya Nyaya Sanhita 2023 in criminal case bearing GR No. 13 of 2025 before learned Judicial Magistrate First Class at Campbell Bay arising out of FIR No. 14/2025 dated 09.04.2025 PS Campbell Bay, South Andaman District, and has come up with a prayer for quashing the said case under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023.

2. The facts of the case may be summed up thus.

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3. On 09.04.2025 an FIR was Chalked out on the basis of a report given by SHO, PS Campbell Bay SI Vinit Kumar Mourya who has alleged that one Shri Muni Raj has committed offence under section 106(1) of the BNS, 2023, upon being negligent resulting in the accidental death of the employee of Shri B. Veeraiah by whom the victim Samar Mondal was deputed, for painting of electrical pole transformer structure.

4. Pursuant to lodging of FIR the investigation was taken up by the Police Authority. On completion of investigation charge sheet was submitted by the Police Authority under section 106(1) of BNS, 2023 against Muni Raj and B. Veeraiah the petitioner herein. As per the Charge Sheet the petitioner is implicated in the case on the ground that he did not provide proper training to the staff especially the deceased for working with electric pole / line and did not provide safety equipment to them either and as such due to their negligence he is liable under section 106(1) of the BNS, 2023.

5. The petitioner being aggrieved by the Charge Sheet submitted by the Police Authority against him has come up with the instant application.

6. Heard Learned Advocate for the petitioner and Learned Advocate for the opposite party State. Perused the FIR Charge Sheet and other materials on record.

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7. Learned Advocate for the petitioner submits that that allegation under section 106(1) BNS is not applicable to the petitioner as he was not present on the spot where the incident took place.

8. Learned Advocate further submits that current was restored prior to Schedule of completion of work thus, there is no negligence on the part of the petitioner or his staff.

9. Learned Advocate also submits that the letter dated 9th May, 2025 issued by EE Garrison Engineer (1) will got to show that the supervisor was present at 1st 2- pole structure for painting purpose but left the site as the work started. Thus the petitioner cannot be charged under section 106(1) of BNS, 2023.

10. Learned Advocate relies upon the following Judicial decisions:

i) Yuvraj Laxmilal Kanther & Anr. Vs. State of Maharashtra, reported in 2025 SCC online S.C. 520;

ii) Shri Pankaj Kumar Dhingra Vs. The State CRR- 23 of 2026 (High Court at Calcutta) ;

iii) L. Ashok Kumar Vs. State represented by Inspector of Police ors. 2021 SCC online Mad 2772;

iv) I. B Bhalla and Ors Vs The State reported in 1989 SCC Online Cal 278 .

v) M/S Divis Infratech Builders and Electrical Contractors Applicant Vs. State of Maharashtra,

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Respondent, Criminal Application No. 218 of 2011, Bombay High Court, Nagpur Bench.

11. Learned Advocate for the opposite party State submits that Section 106(1) BNS speaks for itself. Learned Advocate further submits that the petitioner being Contractor had the duty to provide the safety device to the victim Samar Mondal to work on electric pole and by neglecting to do so has committed offence under Section 106(1) BNS. Learned Advocate also submits that it is not a fit case to invoke power under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023.

12. Before proceeding to decide the matter in issue it is necessary to consider the provisions contained in Section 106(1) of Bharatiya Nyaya Sanhita 2023. The said section provides as follows:

> *"Whoever causes death of any person by any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either deception for a term which may extend to five years, and shall also be liable to fine and if such act is done by a registered medical practitioner while performing medical procedure he shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine."*

Thus, the provision of the Section states about rash or negligent act and not omission. In the instant case, as the allegation against the petitioner is that he failed and

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neglected to supply the safety device to the victim Samar Mondal. It is necessary to consider some Judicial pronouncements in this regard.

13. In the case of **Yuvraj Laxmilal Kanther and Anr. Vs. State of Maharashtra** (Supra) the Hon'ble Supreme Court while dealing with the allegation against the accused person of not taking proper care and action by providing safety shoes safety belt etc. to the employees was pleased to observe as follows:

> ***"13.*** *This being the legal framework, let us now deal with the charge against the appellants taking the same as correct. According to the prosecution and accepted by the Trial Court and the High Court, the two accused persons had not taken proper care and caution by providing safety shoes, safety belt etc to the two employees though they were asked to perform the job of working on the sign board as part of decorating the front side of the shop which was approximately at a height of 12 feet from the ground level. The accused persons had provided only an iron ladder to the two employees but while working they were struck by electricity as a result of which they suffered electrocution and fell down. They suffered multiple injuries which led to their death. Therefore, both the accused persons were declared to be responsible for the unnatural death of the two deceased employees."*

The Hon'ble Court was further pleased to observe as follows:

> "*17.3. In so far facts of the present case is concerned, the two deceased employees of appellant No.1 were undertaking the work of decoration of the front side of the shop. As part of the said work, they were working on the sign board which was approximately at a height of 12 feet from the ground level. For this purpose, they were provided with an iron ladder. While working on the sign board, they were struck by electricity as a result of which they got electrocuted and fell down resulting in multiple injuries leading to their death. It was*

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purely accidental. On these basic facts, no prima facie case can be said to be made out against the appellants for committing an offence under Section 304 A IPC, not to speak of Section 304 Part II IPC. In any case, the Trial Court only considered culpability of the appellants qua Section 304 Part II IPC as the committing Magistrate had committed the case to the Court of Sessions confining the allegations against the appellant to Section 304 Part II IPC and not section 304 A IPC."

14. In the case of **I.B Bhalla and Ors Vs. The State** (Supra) the Hon'ble Court observed as follows:-

"6. The mere fact that an accused contravenes certain rules or regulations in the doing of an act which causes death of another, does not establish that the death was the result of rash and negligent act or that a person may be guilty under s. 304 A the rash or negligent act should be direct or proximate cause of the death. Reference may be made to the decision in the case of Ambalal D. Bhatt V. State of Gujarat, reported in AIR 1972 Supreme Court 1150. There the chemist was charged under s. 304A for non compliance with the provisions of the Drugs Rules as made under the Drugs Act for giving batch number to every lot of bottles containing preparation of glucose in normal seline. Supreme Court held that this act did not by itself make the act of chemist causa causana of the death of persons who were injected with those preparations when it was not only the duty of the Chief Analyst to test the materials before they were issued to the injection department but also to test solution in such a way as would trace the lead nitrate in the solution which resulted in the death of the persons. Hence, the negligence of the chemist in giving one batch number to several lots could not by itself be said to be the direct cause of the death nor could his act be declared to be grossly rash and negligent."

"7. In our view; no materials have been disclosed in the F.I.R. which would prima facie indicate that any act of the petitioners was the direct cause of the death of the workman. On the other hind, over the self-same incident case, being Case No. 82 of 1983 was instituted against the Usha Fan Industries, Tapan Sen Gupta, Electrical Maintenance Engineer of the said Industries and Sudarshan Chandra Das, Works Manager, Fan Assembly of the said Industries, for alleged violation of provisions of Electricity Act and the Rule-framed thereunder. The

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averments in the said petition will unmistakably show that the present petitioners had no connection whatsoever with the alleged incident and as such no complaint was made against them in the said case. It appears from the said complaint that the Chief Electrical Inspector of the Government of West Bengal upon enquiry observed that the persons named in the said complaint were responsible for committing breaches of the rules. No materials have been placed before the Court to show that ingredients under s. 304A of the Indian Penal Code have at least prima facie been satisfied in this case. Apart from the fact that the accused were at the material time Administrative Manager, Supervise and General Manager, respectively there is no averment that the death of the workmen was the direct result of any rash or any negligent act of the accused and it was the causa causana."

15. In the case of **M/S Divis Infratech Builders and Electrical Contractors Vs. State of Maharashtra** the Hon'ble Court observed as follows:-

" 5. *We find from the first information report and other papers that it is nowhere mentioned that any person directly from the applicant Company was present on the spot or was issuing directions as to how work should be done. At any rate, Section 304A of Indian Penal Code reads thus:*

"Section 304-A : Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Perusal of the above provision shows that an element of mens rea is sine qua non for holding offence under Section 304A of Indian Penal Code to have been made out. Any rash or negligent act would also attract the mens rea, but in the instant case, we find that there is absolutely no material to show that any person from the applicant Company was present on the spot to supervise the work that was going on and that he failed or neglected to stop the live electric current before the work was commenced. Therefore, it can safely be stated that none from the applicant Company was present on the spot at the relevant time and would, therefore, be not held guilty of negligence as contemplated by Section 304A of Indian Penal Code. If the officials of

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the applicant Company or other Company were in Hyderabad or at some other place away from the spot where incident took place, we do not think that same can have any nexus with the inaction or negligence on the part of the applicant Company. At any rate, we find that no offence punishable under Section 304A of Indian Penal Code is made out. The applicant Company is said to have paid L 75,000/- towards compensation to dependents of the deceased worker. To sum up, we find merit in the present criminal application. Hence, we make the following order :

ORDER

Rule is made absolute in terms of prayer clauses (ii) and (vi) of Criminal Application No.218/2011. Criminal Application No.218/2011 is allowed accordingly. No order as to costs.

Application allowed."

16. In the case of **L. Ashok Kumar Vs. State represented by Inspector of Police and Ors**. (Supra) the Hon'ble Court observed as follows:-

"8. In order to fasten the liability on the petitioner, there must be some material to show that the petitioner has acted with recklessness and in total disregard for the possible consequences. In the present case, the petitioner had no control over the tipper lorry that was handled by the deceased and unfortunately, the lorry came in touch with a live HT Wire. Insofar this incident is concerned, the petitioner cannot be held to be the causa causans. In the absence of the same, the final report filed against the petitioner for an offence under Section 304(A) of IPC is unsustainable."

17. In the case of **Shri Pankaj Kumar Dhingra Vs. the State (Supra)** the Hon'ble Court observed as follows:-

"22. The expression "whoever causes death" clearly indicates that there has to be direct nexus between the death and the accused person. Notably, the expression used is "causes death" and not "responsible for the death".

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> *23. As held in I. B. Bhalla and others (supra)1, while considering a case under Section 304A of the IPC, which is the predecessor provision of Section 106 of the BNS, the "rash and negligent act" contemplated in the said Section should be direct or proximate cause of the death. Thus, the prosecution had to make out prima facie case in the Charge Sheet, in order to bring the petitioner within the fold of Section 106, that the death was the direct result of any negligent act of the accused/petitioner and it was the 'causa causana'.*
>
> *24. In Yuvraj Laxmilal Kanther and another (supra)2 the Hon'ble Supreme Court reiterated in the context that when the appellants therein did not provide safety equipment and then the concerned workmen fell from a height of 12 feet from the ground level due to electrocution, it was purely accidental and on the basic facts, no prima facie case could be said to be made out against the appellants therein for committing an offence under Section 304A of the IPC.*
>
> *25. The allegation against the petitioner in the FIR and the Charge Sheet is insufficient to connect him directly to the death, which is a pre-requisite of the offence contemplated under Section 106, BNS."*

18. Now, upon considering the facts of the case it is an admitted position that the petitioner was not at the work site where the incident took place and the work was not under his supervision. It will further appear from police report that the victim started work from 13.03.2025 and the accident took place on 02.04.2025, and it is not a case that on the very first day mishap took place. Further the work commenced on 12th September, 2024 and date for completion was fixed on 10th March, 2025. In the meantime, there is no complaint or reminder issued by the complainant Authority or their Officers and Engineers that work is being performed without safety device and in spite of reminder the same is not followed.

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19. In this regard, it would be reasonable to quote Clause 14 of General Conditions of Contract which provides as follows:

Clause 14*. To ensure effective enforcement of the rules and regulations relating to safety precautions, the arrangement made by the Contractor shall be open to inspection by the labour officer, Engineer in charge of the department or their representatives.*

The clause 14 will go to show that the arrangement made by the contractor and the work done was within knowledge and supervision of the labour officer or Engineer in charge of the department of complainant authority.

20. Further letter addressed by Assistant Engineer (Ele) Campbell Bay dated 19th May, 2025 to the Investigating Officer provides as follows:

> "5. Safety protocols for staff climbing electric poles:
>
> They must confirm that the power line on the pole is switched off.
>
> Proper grounding must be ensured by using the HT earth rod.
>
> Mandatory protective gear including HT gloves, helmets safety shoes, belts and other relevant safety equipment must be worn in adherence to standard operational procedures."

21. Thus the safety protocols comprises 3 parts. The first two part is the responsibility of the person who climbs and the supervisor. The third part of providing safety kits is the

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responsibility of contractor. There is no findings by police Authority that death took place due to non wearing of safety kits. Further the death took place due burn injury suffered by the victim in stomach abdomen and both hands due to flow of electric current.

22. The petitioner with regard to the question of safety equipment raised by Police replied as follows:

> *"No safety equipment (personal protection kits) provided to the staff sent for work since all the major works are completed. The staffs of my company were directed to paint the electric poles cable laying inside the earth by digging the land and they possess necessary articles for painting and digging."*

23. In the facts and circumstances, this Court is of the view that there is no ground to proceed against the petitioner Shri B. Veeraiah. This application CRR 37/2026 stands allowed. Case GR No. 13 of 2025 pending before the Judicial Magistrate First Class –I at Campbell Bay arising out of FIR No. 14/2025 dated 09.04.2025 PS Campbell Bay stands quashed so far the petitioner is concerned.

24. The petitioner stands discharged from the case.

25. Thus, Criminal Revision is disposed off.

26. Connected CAN application, if any, are also disposed of.

27. Urgent Xerox certified copy of this judgement be supplied to the Learned Counsel appearing for the respective parties upon compliance of usual formalities.

(Biswaroop Chowdhury, J.)