

HIGH COURT OF TRIPURA
AGARTALA

Crl.Rev.P. 12 of 2024

Farid Uddin @ Fasani

---Appellant(s)

Versus

The State of Tripura

---Respondent(s)

For Petitioner(s)	:	Mr. P. Majumder, Advocate.
For Respondent(s)	:	Mr. S. Ghosh, Addl. PP.
Date of hearing and date of judgment and order	:	01.07.2024.
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Mr. P. Majumder, learned counsel appearing for the petitioner also heard Mr. S. Ghosh, learned Addl. PP appearing for the state.

[2] This is application under Section 397 read with Section 401 of Cr.PC for setting aside the judgment dated 13.12.2023 passed in Criminal Appeal No.04 of 2023 by the Ld. Sessions Judge, North Tripura, Dharmanagar.

[3] The brief facts of the case of the petitioner as reflected in the impugned order of the court below are that on 16.12.2019 at around 6.30pm the wife of the cousin brother of the informant o Fulurani Goswami (the victim) had gone to Kadamtala CHC and therein when she alighted from vehicle, at that time, the driver of vehicle named and style as “Alto” bearing registration No.TR-05-C-0722 knowing fully well that he may cause the death of any person reversed the said vehicle by driving it in a rash and negligent manner and dashed the victim with the rear end of the vehicle and smashed her against the wall of the circular structure present in the hospital with intent to kill her. It is further alleged that due to such incident the victim sustained grievous injuries and was

admitted at Kadamtalla CHC from where considering the gravity of her injuries she was referred to Dharmanagar District Hospital wherein she expired. On receipt of the written ejahar the then OC of the Kadamtala PS, registered the same as Kadamtala PS Case No.2019 KDL 069 dated 16.12.2019 under Section 279/427/304 (Part II) of the India penal code. Thereafter, charge sheet was filed before the court below. On receipt of the case record, the learned court below was pleased to offer fresh bail to the accused person. Thereafter, both sides were heard on the question of framing of charge and the contents of charge under section 279/427/304 (Part II) of IPC read with Section 184/187/181 of the Motor Vehicles Act, 1988 was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

[4] During trial prosecution examined as many as 18 witnesses and the trial court after evaluating the evidence, convicted the petitioner under Section 427, 304A, 279 of the IPC and also under Sections 184, 187 of the Motor Vehicles Act, 1988 in the following manner:

In the result the accused person namely Farid Uddin @ Fasani (A1) is hereby acquitted of the contents of charge framed against him u/s. 304 (Part II) of I.P.C and Section 181 of the Motor Vehicles Act, 1988.

In the result the accused Farid Uddin @ Fasani (A1) is hereby convicted of the contents of charge framed against him u/s. 427 of I.P.C and he is sentenced to undergo R.I. for a term of one year along with fine of Rs. 5,000/- in default to undergo R.I. for three months.

In the result the accused Farid Uddin @ Fasani (A1) is hereby convicted of the contents of charge framed against him u/s. 304A of IPC and he is sentenced to undergo R.I. for a term of two years along with fine of Rs. 5,000/- in default to suffer R.I. for three months.

In the result the accused Farid Uddin @ Fasani (A1) is hereby convicted of the contents of charge framed against him u/s. 279 of IPC but since the offense under Section 304A of I.P.C is an aggravated form of offense under Section 279 of I.P.C, a separate sentence is not passed for offense punishable under Section 279 of I.P.C.

In the result the accused Farid Uddin @ Fasani (A1) is hereby convicted of the contents of charge framed against him u/s. 184 of the Motor Vehicles Act, 1988 and he is sentenced to undergo S.I. for a term of six months along with fine of Rs. 1,000/- in default to suffer S.I. for fifteen days.

In the result the accused Farid Uddin @ Fasani (A1) is hereby convicted of the contents of charge framed against him u/s. 187 of the Motor Vehicles Act, 1988 and he is sentenced to S.I. for a term of three months along with fine of Rs.5000/- in default to suffer S.I. for fifteen days.

[5] Aggrieved by the impugned order dated 13.12.2023 passed by the learned court below, the petitioner has approached this Court seeking the following relief(s):

- (i) *Admit the revision petition;*
- (ii) *Issue notice upon the respondent*
- (iii) *Call for the lower courts record, &*
- (iv) *After hearing the both sides, set aside the impugned judgment/order dated 13.12.2023 passed by the Ld. Sessions Judge, Dharmanagar, North Tripura, in Criminal Appeal No.04 of 2023, preferred by the present petitioner and affirmed the order of sentences dated 16.06.2023 passed by the Ld. Assistant Sessions Judge, North Tripura, Dharmanagar in Case No.ST (T-2) 16 of 2021 sentenced the petitioner under Section 279/304A/427 of IPC and release the accused petitioner on bail till the final disposal of the revision petition;*
- (v) *Suspend further proceeding of impugned judgment/order dated 13.12.2023 passed by the Ld. Sessions Judge, North Tripura, Dharmanagar;*
- (vi) *After hearing both the sides, set aside the order of conviction and sentence passed by the Ld. Courts below.*

[6] It is contended by the counsel for the petitioner that the learned Sessions Judge should have set aside the order of the sentence passed by the Ld. Trial Court as the Ld. Trial Court had failed to apply its judicious mind in appreciation of evidence on record and accordingly arrived at a wrong conclusion and as such, the judgment dated 13.12.2023 passed by the Ld. Sessions Judge, North Tripura, Dharmanagar, in respect of present petitioner is liable to be set aside.

[7] It is further contended by the counsel for the petitioner that other witnesses of the case as cited by the prosecution could not support the prosecution case in any manner as per law and the Ld.Court below as well as IO of the case did not cite the actual witnesses who are best witness to this case to prove the case as per law and the present petitioner in the formation of intention such as accident occurs or any other incident took place and in these circumstances, it is very much established that no offence was constituted by the present petitioner in that relevant time as alleged by the complainant and as such the impugned judgment passed by the Ld. Trial Court as well as Ld. Appellate Court is liable to be set aside.

[8] On the other hand, Mr. S. Ghosh, learned Addl.PP appearing for the state opposes the said contention made by the learned counsel for the petitioner and submits that there is no infirmity in the impugned order passed by the learned court below and further prayed to dismiss the petition.

[9] Having gone through the record and also having considered the submission as advanced by the learned counsel for the parties, this court is of the opinion that the said accident which led to the demise of the victim was occurred due to the negligence of the petitioner herein. It would be an inappropriate act on the part of this court, if such incidents are seen leniently. Therefore, considering the intensity of the case, the sentence given to the convict-petitioner by the leaned court below under Section 304A to undergo RI for a term of two years along with fine of Rs.5000/- in default to suffer R.I for three months is reduced to 6 months.

[10] It is made clear that the modification has been made only with regard to the Section 304A and the rest part of the impugned order dated 13.12.2023 passed in Criminal Appeal No.04 of 2023 by the Ld. Sessions Judge, North Tripura, Dharmanagar remains unaltered.

[11] In view of the above discussion, the present revision petition stands partly allowed. As a sequel miscellaneous applications pending, if any, shall stand closed.

JUDGE

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